SUICIDE in the Middle Ages

VOLUME II

The Curse on Self-Murder

ALEXANDER MURRAY

Suicide
in the
Middle Ages

'If I go down to Hell, thou art there also.'
(Psalm 139: 8)

Frontispiece The Passion. Ivory casket, Italy, *c.*420–30.

Suicide
in the
Middle Ages

by

Alexander Murray

volume ii

The Curse on Self-Murder

He that is hanged is accursed of God
(*Deuteronomy* 21: 23)

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Cover illustration: side of an ivory box, depicting the Passion, early fifth century.
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Preface

The writing of history is always a cooperative enterprise. This rule could be deduced from first principles, but in my case it is experience that has taught it, in the writing of a long book on this particular subject. The *dramatis personae* of the previous volume, the suicides, were too elusive to answer a search by one pair of eyes, so I relied on many fellow-searchers. This successor volume has drawn its need for cooperation from a different source, but one quite as demanding. We shall be scanning aspects of law as elusive as the suicides and even further-ranging, and I would have been ill-advised to begin it, let alone hope to bring it to the present stage, without help *en route* from good samaritans, each an expert in one part of the range. To begin the acknowledgements nearest my own home ground: Professor David Ganz opened his treasury of knowledge on late Carolingian writing schools; Dr Lesley Smith did the same for the medieval Bible; and Professor George Holmes and Dr Marco Doregatti on Dante. Since the theme of this entire volume lies, directly or indirectly, in the province of law, I am correspondingly conscious of my debts to Mr Patrick Wormald, who found time to comment on Chapters 5, 8, and 10; to Professor Thomas Charles-Edwards, who advised me on Irish law, and to Dr Kathleen Cushing, whose comments on the manuscript as a whole corrected me on more than one point in canon law. The length of this volume should not imply a pretence to have said the last word on its subject. Any such pretence, if there had been one (despite the protestation made on the first page of the previous volume), would anyway have melted in the course of a symposium on 'Suicide in Medieval English Law' held at Magdalen College, Oxford, in June 1999, whose organizers, Dr Andrew Lewis and Dr David Ibbetson, I thank for having invited me. The proceedings are published in the *Journal of Legal History* in April 2000, and I am sorry only that this volume was already too near publication to allow more than fleeting notice of what was said.[1]

A step further from familiar medieval boundaries, my need of help was proportionately greater. I thank Professor Ernest Nicholson for advice on matters biblical, Dr Christopher Pelling, again, on classical Greek, and Dr Margaret Atkins, who kindly read and criticized the chapters on late Greek and patristic ethics, while on Origen I had the privilege of advice from Professor Henry Chadwick. In climates still further afield, a vagrant's helpless-

[1] My only material observation on any of the contributions is mentioned on pp. 67–8 n. 41 below.

ness was relieved by Professor Alexis Sanderson and Dr Gillian Evison in the field of Sanskrit law; by Professor Alan Jones, in that of Muslim law; and in that of ancient and Coptic Egypt, by Dr Mark Smith and his two colleagues, Drs Martin Stadler and Marc Depauw.

On matters close to home in the practicalities of research, I am grateful for timely help I had from Professor Pieter Raedts, of the University of Utrecht, and from Dr Isabelle Newschwander, Director of the Municipal Archive in Abbeville, both of whom made available to me otherwise elusive items of unpublished research. Even more at home (when working in the north) I have been grateful to the library staff of the Universities of Newcastle upon Tyne and Edinburgh for treating me as one of theirs; while in the most practical of all aspects of the writing of books, Michele Bennett's word-processing has been expert as well as, at times under the most testing conditions, tirelessly cheerful. For expert help in correcting mistakes at proof-stage I wish also to thank Dr Julia Hegewald, Dr Leofranc Holford-Strevens, and Dr Patrick Nold.

In strict justice this list should go on longer, but I will obey it only so far as to refer back to an earlier list of creditors in the preface to *The Violent against Themselves*,[2] and add two comments. Since this book, or trilogy, was conceived as a whole, as a one-in-three and three-in-one simultaneously, any assistance given in the making of one part was accessory to both the others, and the thanks expressed there are repeated: they apply more or less directly to this volume too. Secondly, one name needs to be added, missed then in the flurry of publication: the Dantesque *title* of Volume I arose from last-minute discussion at a dinner party, and was one of the many poetic inspirations of Alistair Elliot.

A thirteenth-century French bailiff, Philippe de Beaumanoir, warned his readers against indiscriminate company, and drove home the advice with a story from his own experience, of an innocent pilgrim who had accepted a drink from a group of strangers at an inn. They turned out to be highwaymen, so that when the police arrived to settle scores the pilgrim was hanged along with the rest.[3] By naming the kind counsellors above I risk dragging them to a similar fate; so let me swear, on their behalf, that while their help was generously given, it remained a common understanding between us that I was in many ways beyond help and must, if the worst came to the worst, be hanged on my own.

University College, Oxford
Hallbankgate, Cumbria
January, 1999

[2] Oxford University Press, 1998, pp. viii–xi.
[3] *Coutumes de Beauvaisis*, §§1962–3; ed. A. Salmon (Paris, 1900), vol. 2, pp. 490–1.

Acknowledgement

The lines by W. H. Auden quoted on pp. 3 and 290 are reproduced by permission of Faber and Faber Ltd and Random House Inc.

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Contents

Preface v
Notes on Plates xii
List of Figures xxiv
List of Maps xxiv
Introduction 1

practice

1. The Body 10
   - The Evidence 10
   - Urgency 16
   - Release from the Noose 18
   - Extraction 23
   - Transport 28
   - Hanging and Mutilation 32
   - The Barrel and the River 37
   - Profane Burial 41
2. The Property 54
   - Bodies and Possessions 55
   - Confiscation 63
   - Modifications 77

theory: the written inheritance

3. Religion 86
   - The Bible 91
   - The Early Fathers 98
   - St Augustine and Constantine 101
   - The Problem of Martyrs 104
   - The Problem of Virgins 110
   - Suicide in St Augustine's *The City of God* 113
   - Strength and Weakness in St Augustine's Legacy 117
4. Philosophy 122
   - Plato and Aristotle 123
   - Greek Stoicism: The Priesthood of the Wise 127
   - Stoicism in Roman Philosophy and Literature 136
   - Neoplatonism 142

5. Law 152
Roman Law 154
Canon Law: The Early Germanic Councils 181

theory: the medieval contribution

6. Theology: The Age of Reticence 189
Biblical Commentary 193
Peter Abelard 200
The Roman Debate 204
The Silence of Late Twelfth-Century Theology 213

7. Theology: Suicide Discovered 219
Alexander of Hales and the Lure of Neoplatonism 221
The Reception of Aristotle's *Ethics* 224
St Thomas Aquinas 229
Two Local Broadcasters: Remigio de' Girolami and Guido Vernani 231
A Pope and a Moral *Vademecum*; Pope John XXII and Johannes Nider 235
Conclusion 241

8. Canonists and Jurists 245
Canon Law 247
Commentary on Roman Law 276

9. Occasional Theology 287
Dante 289
Passing Remarks by Storytellers 316

10. Judas 323
Judas Desperatus 324
Judas the Suicide 326
Judas the Damned 331
The Historical Judas 335
The Suicide of Pilate 339
The Suicide of Herod 343
Judas Rescued 356
A Fourteenth-Century Commentary on Matthew 27: 3–5 364

11. The Sin of Despair 369
The Twin Roots of Medieval Ethics 370
The Word 'Despair' in Context 374
The Two Despairs 385

the roots of taboo: pollution and the community

12. Intention without Act 396
Attempted Suicide in Ecclesiastical Law: Theory 400

The Same in Practice: Cases from Ecclesiastical Records 402
Attempted Suicide in Civil Law: Theory 405
The Same in Practice: Cases from Secular Records 417

13. Act without Intention 426
Pollution 426
The Laws' Preoccupation with Method 430
Dominance of the Event 441
Polluted Objects 448

14. The Community as Judge 452
Breakers and Benders of the Law 452
Champions of the Law 464

the roots of taboo: the unwritten inheritance

15. The Curse in Antiquity 483
Rome 487
Greece 504
The Jews 513
The Testimonies Taken as an Ensemble 523
'The Roman Attitude to Suicide' 526

16. The Curse in Other Cultures 532
Suicide Taboos Among Primitive Peoples 533
Attitudes to Suicide in Ancient and Medieval India 539
Suicide Law in Medieval Islam 547
Suicide and the Early Germans 563
Egypt 572

Select Bibliography 599
Index 603

Notes on Plates

Frontispiece: Judas and the Crucifixion

The panel illustrated is one of four ivories which once formed the sides of a small box. (The ivory itself measures 4 × 3 inches (10 × 7.5 cm)). Ivories are intrinsically harder to date than coins, and a trace of uncertainty hovers round the date even of this one, but most scholars agree that its style dates it approximately between ad 420 and 430. That makes this set of ivories one of the very earliest narrative treatments of the Passion story, and it inspired copies. The deaths of Christ and Judas are set over against each other almost symmetrically, in a manner rarely quite so deliberate in subsequent centuries (see pp. xxi–xxii). Judas is fully clothed with tunic and toga, his money-bag lying useless below his feet. Below the heroically sculptured Christ—to depict Christ on the cross at all was a daring innovation—Mary and St John stand in sadness while a Roman soldier (traditionally called Longinus), active in the Crucifixion, now looks at his victim with an awareness that the latter may, indeed, be *Rex judaeorum*.

Literature: W. F. Volbach, *Elfenbeinarbeiten der Spätantike und des frühen Mittelalters*. 3rd edn, rev. (Mainz, 1976). No. 116, p. 82 (and plate 61); cf. no. 232 (p. 136 and plate 107), for a Carolingian copy.

London, British Museum, Department of Late Antique and Byzantine Antiquities. By permission of the Trustees of the British Museum.

Plates

(between pages 328 and 329)

1. The body of a suicide monk is dragged out through the door of his convent to be enclosed in a barrel, which will soon be thrown into the River Reuss (see pp. 37–41). The picture illustrates the chronicle of Diebold Schilling the Younger (1460–1516/23). Schilling junior came from a Swiss family of town chroniclers of just the kind described in *The Violent against Themselves* (p. 100), as earning their livings as town clerks while writing chronicles in their spare time. They drew from their job an informed interest in matters local and legal, enough to offer the historian an occasional suicide, though in Diebold's case his interest in the law involved several brushes with it—he was once imprisoned for alleged murder, and often in semi-disgrace. He took a correspondingly lighter interest in studious historiography, and most of his text is copied from other historians, including books already printed. The idea of the pictures nevertheless remained Schilling's own, as may most of the chronicle's 443 pictures, which are often palpably taken from life, not least from low and folk life. They make this *Bilderchronik* a rare document for popular law and custom (not to mention technology) *c.*1500. The suicide Schilling records here occurred in 1513, but the ritual it illustrates was at least 150 years old at the time, being mentioned in a Swiss law code of *c.*1350.

Lucerne, Zentralbibliothek. Diebold Schilling, Luzerner Bilderchronik, fol. 94^{v}. Photograph by the Schweizerisches Landesmuseum, Zürich. By permission of the Zentralbibliothek, Lucerne.

2. The long Middle French *Roman de la rose*, written successively by two authors—Guillaume de Lorris (working *c.*1220–40) and Jean de Meung (working *c.*1275–80)—once enjoyed manuscripts probably more numerous than those of any other vernacular medieval book. Some 500 still survive, with the result, among others, that their relationships remain to be fully explored. Although this 15th-century manuscript appears to have been of French origin it interprets 'Felonye', in Guillaume de Lorris's allegorical garden (lines 152–3), in a sense identical to that used by English criminal law, for which suicide was a felony *par excellence*. (See p. 67.)

Literature: F. Lecoy, ed., *Le roman de la rose*, 3 vols. (Paris, 1965–70), vol. 1, p. 6. *Catalogue of Additions to the Manuscripts in the British Museum. 1861–75* (1877), p. 951; E. Langlois, *Les manuscrits du Roman de la Rose* (Paris, 1910), 144; updated in some particulars (without mentioning this MS) by S. J. Huot, *The Romance of the Rose and its Medieval Readers* (Cambridge, 1993).

London, British Library, MS Egerton 2022, fol. 5^{v}. 15th century. By permission of the Trustees of the British Library.

3. The author of the second, longer part of *Le Roman de la rose*, Jean de Meung, lamented satirically that there were not more Lucretias in his day prepared to die for

their chastity (lines 8621–4; ed. Lecoy, vol. 2, p. 13). This manuscript, made in England *c.*1380, and illustrated with 56 miniatures, was long in the possession of the Courteney family. That one miniature should illustrate the poet's reference to Lucretia's suicide was not unusual. (Cf. pp. 139–40.)

Oxford, Bodleian Library, MS e Musaeo, 65, fol. 66^{v}. The reproductions in plates 3, 5, 6(9) 7 and 11 are made by permission of the Curators of the Bodleian Library.

4. The suicide of Cato of Utica was as gory as any Christian martyrdom and received a corresponding degree of publicity within its own literary tradition, since it epitomized a certain kind of Stoic ideal. Rather than recommend it to medieval illumination, these qualities in Cato's suicide may have been what barred its way, its moral significance rendered all the more confusing because—by a confusion between Cato of Utica and Cato the Censor (his great-grandfather)—the present Cato was also thought to have written *The Distichs of Cato*, a much-used pocket book full of lofty moral principles. What would the author of this work of have been doing, Christian readers might have wondered, falling so ostentatiously on his sword? These considerations, bearing consciously or unconsciously on the mind of a north Italian illuminator *c.*1455, may explain why he broke off the illumination of a selection of Plutarch's *Lives* at just this point, and left a blank. For his text would have required him to devote his skill with anatomical detail, manifest elsewhere, to the depiction of a bloody scene which, of all classical suicides, would have been the most morally abhorrent even in the relative latitude of the Renaissance.

(a) At the opening of Plutarch's *Life*, Cato is shown in a stance appropriate to his illustrious ancestry.

(b) The text says: 'Cato gave orders for the doors to be shut and retired to bed as if he intended to sleep for the rest of the night.' The grisly scene follows. The scribe has prepared for the picture with a marginal caption in red ('The death of Cato'), and on the next page, as the suicide begins in earnest, will add, also in red, a marginal comment foreign to the spirit of Plutarch's text, 'Cato is cruel to himself.'

Literature: C. Mitchell (ed.), *A Fifteenth-Century Italian Plutarch* (London, 1961), esp. 7–17; other grim, but less morally confusing, scenes are reproduced by Mitchell in plates 2 and 7; authorship of the Cato miniature, pp. 13, 17. For actual suicides in the duchy of Milan in the 1460s, see *The Violent against Themselves*, 271.

London, British Library, MS Add. 22318, fols. 167^{r} and 201^{r}. N. Italian, *c.*1455, illustrated probably in the middle or late 1460s. By permission of the Trustees of the British Library.

5. Medieval psalters commonly illuminated the initials of each psalm which began either one of the threefold divisions of the psalter or one of the eight daily offices (making ten in all, since Psalm 1 was common to both cycles). Two psalms normally in the series were Psalm 51/2 ('Quid gloriaris in malitia, Qui potens es in iniquitate?' ('Why boastest thou thyself, thou tyrant: that thou canst do mischief?') and Psalm 52/3: 'Dixit insipiens in corde suo "Non est Deus" ' ('The fool hath said in his heart:

"There is no God"'). Illuminators who chose to illustrate suicide at all normally did so in relation to one of these two psalms, whose texts showed the ruinous consequences of—respectively—bad acts and bad thoughts. When not illustrated by a suicide, Psalm 52/3 often has instead a 'fool' (*insipiens*), with a bauble and an intriguing variety of other attributes, and sometimes Christ's temptation. The main equivalent alternative for Psalm 51/2 is a picture of David and Goliath. The inventive range of these programmes hardly needs pointing out, and never ceases to occupy specialists.

For us, the main question is who the suicide was meant to be. Since King David was the putative author of the Psalms, psalter illustration commonly relates to episodes in David's life. That would argue for the suicide's identification with Saul, the suicide's royal status shown also by his crown (its points almost invisible in the present (a) because of the small scale of the miniature) and sometimes by his throne. In the present (b), furthermore, the suicide-hungry Devil—in so far as it is not a mere import from medieval notions about suicide—may echo the biblical reference to the 'evil spirit' which invaded Saul in I Samuel 18: 10 ('Invasit spiritus Dei malus Saul').

The biblical account nevertheless makes it crystal-clear that Saul fell ('irruit') on his sword (I Samuel 31: 4), and miniaturists were quite capable of representing that image (as in the present Plate 15). But it very rarely appears in this pair of initials—only enough, in fact, to raise the question why it did not appear more often. There is therefore room for other interpretations of the suicide. One tempting answer invokes Jewish scriptural exposition. The Hebrew original 'nabal' has a stronger negative connotation than 'fool (*insipiens*)', involving the idea of heresy and enmity to God. That reading would make the king in the miniature, not so much the historical Saul as an abstract character, antithesis to the good King David. As King David the psalmist epitomized all that was godly, the opposite was true of his antithesis, and suicide was an end which befitted him.

Literature: A. Belkin, 'Suicide scenes in Latin psalters of the thirteenth century as reflection of Jewish Midrashic exposition', *Manuscripta*, 32 (1988), 75–92. On the psalter 'fool' illustrations in general: V. A. Kolve, 'God-Denying Fools and the Medieval "Religion of Love"', *Studies in the Age of Chaucer*, 19 (Columbus, Ohio, 1997), 3–59, esp. 5–28 (pages preliminary to a book Professor Kolve is preparing on the subject).

(a) Psalm 52/3: 'Dixit insipiens in corde suo, "Non est Deus".' The small scale of the manuscript has rendered the points of Saul's crown all but invisible. Bible, probably *c.*1270–80. English. Oxford, Bodleian Library, MS Digby 9, fol. 239^{v}.

(b) Psalm 51/2: 'Quid gloriaris in malitia, Qui potens es in iniquitate?' The Devil, apparently a pure medieval import, may in fact echo I Samuel 18: 10: 'Invasit spiritus Dei malus Saul'. Psalter. Ghent. *c.*1320–30 (12mo). Oxford, Bodleian Library, MS Douce 5, fol. 143^{r}. The ignominious suicide in the initial may be meant to contrast with the heroic chivalrous combat in the lower margin (a tempting conjecture I owe, with much else in these notes to biblical illustration, to consultations with Dr Martin Kauffmann).

(c) Psalm 52/3: 'Dixit insipiens . . .' As in (b) the suicide's regal status is unmistakable but in this psalter he has been moved back (whether by design or by accidental transposition is hard to say) to Psalm 52/3, being replaced in Psalm 51/2 ('Quid gloriaris') by a fool with a bauble. Psalter, soon after 1320. Made for Christchurch, Canterbury. Oxford, Bodleian Library, MS Auct. D.2.2, fol. 61^{r}.

(d) Psalm 51/2: 'Quid gloriaris?' The king's status is represented here also by a throne. Psalter, *c.*1325–35. English. (Possibly made for Edward III, or (an alternative on which opinion is still undecided) possibly for a Benedictine nunnery with royal connections.) Oxford, Bodleian Library, MS Douce 131, fol. 42^{v}.

6. By typology, biblical exegetes matched an Old Testament 'type' with the New Testament episode, the 'antetype', which it prefigured. The numerical disproportion between Old and New Testament suicides worked against typological illustration of more than one or two sets, and may have played its part in prolonging acceptance of the apocryphal suicide of Herod (Plate 15, below). In the luxurious thirteenth-century *Bible moralisée*, some of whose illuminations reflect a typological programme, Judas is here matched with Achitophel, whose self-hanging 'in his own home' (II Samuel 17: 23) is displayed with some technical sophistication—see the overturned table. (For the sources of the Judas representation see pp. 327–30.) Razias, on the other hand, posed a problem. The *Bible moralisée* often favoured a looser form of commentary than that of strict typology, and here the embarrassingly heroic suicide in II Maccabees was essentially 'moralized away'. Itself implicitly justified *à la* Cato as a means for rescuing Razias from 'subjection to sinners', the suicide found its New Testament equivalent in a Christian's resort to the Gospel, to rescue him from subjection to the Devil. Authority has a waxen nose.

Literature: A. de Laborde, *La Bible moralisée conservée à Oxford, Paris et Londres* (facsimile with introduction), vol. 1 (Paris, 1911), vol. 1, plate 158, and vol. 3 (Paris, 1915), plate 474.

(a) Achitophel and Judas. Oxford, Bodleian Library, MS Bodley 270b, fol. 158^{r}.

Achitofel consiliarius Absalon, postquam vidit Absalonem sic esse mortuum et deperisse suum consilium, pre dolore laqueo se suspendit.

Achitophel, Absalom's counsellor, when he saw that Absalom had thus died and that his counsel had come to nothing, from grief, hanged himself with a rope.

Achitofel figurat Iudam traditorem qui propter magnitudinem peccati in desperationem decidit et pre dolore laqueo se suspendit.

Achitophel prefigures Judas the traitor, who fell into despair on account of the magnitude of his sin, and from grief, hanged himself with a rope.

(b) Razias. London, British Library, MS Harley 1526, fol. 31^{r}.

Razias quidam de senioribus ab Ierosolimis vir delatus est Nicanori qui misit quingentos viros ut eum comprehenderent. Turbis autem disrumpentibus ianuam cum iam compre-

henderetur gladio se petit, nolens subici peccatoribus. (= précis of the Vulgate II Maccabees 14: 37–41)

A certain Razias, one of the elders of Jerusalem, was reported to Nicanor, who sent five hundred men to arrest him. The crowds had broken down the door and, already under arrest, he thrust his sword into himself rather than be subject to sinners.

In margin below the above in the MS, not shown:

Hoc significat quod quando dyabolus temptat iustum iustus per doctrinam evangelicam temptationem reprimit et motus illicitos ad petram allidit, id est ad doctrinam christianam.

This signifies that when the Devil tempts the Christian the just man represses the temptation by means of evangelical doctrine, and dashes his illicit emotions on the rock, that is, on Christian doctrine.

7. Here, in a ring of Dante's Hell which punishes the violent against themselves, the bearded, aged Virgil guides Dante past bushy, ugly trees, each tree holding a damned soul and surmounted by a monstrous bird, or harpy, which torments it (*Inf.* 13: 37–40, 97–102). On the left of the picture stands the centaur 'Nesso', alias Nessus, from the ancient legend of Hercules, who had been appointed (*Inf.* 12: 98–9) in the previous ring, of the violent against others, to lead the two wayfarers into this one. Above the heads of two of the birds can be read 'arpie' ('harpies'), and Pier della Vigna, the soul who is speaking, is identified by an inscription round the trunk of his tree: 'Piero di le vigna'. (Other inscriptions are visible but no longer legible.) The text above Piero's head carries the lines in which Piero identifies himself to the visitors as 'the one who held both keys of Frederick's heart, and turned them, unlocking and locking so gently':

Io son colui che tenni ambo le chiavi 58
del cor di federigo et che le volsi
serrando & diserrando si soavi.

While no surviving copy of *The Divine Comedy* is datable to Dante's own lifetime, ornate editions began to appear in the 1330s just over a decade after his death in 1321. If this manuscript was produced in Naples in around 1340–5, as parallels with other Neapolitan illumination suggest, it is one of the dozen earliest surviving manuscripts of the *Comedy*, and even a later dating, to 1350–75 (allowed by critics of the earlier) leaves it as very early. The codex was acquired in Naples in 1714 by the bibliophile Thomas Coke, Earl of Leicester, and long rested in the famous library of Holkham Hall in Norfolk, coming to the Bodleian in 1981.

Literature: M. Roddewig, *Dante Alighieri: Die göttliche Komödie. Vergleichende Bestandaufnahme der Commedia-Handschriften* (Stuttgart, 1984), 151–2 (no. 364), and xix–xxviii; M. Rotili, *I codici danteschi miniati a Napoli* (Naples, 1972), 53–4, 73; P. Brieger, M. Meiss, and C. S. Singleton, *Illuminated Manuscripts of the Divine*

Comedy (London, 1969), vol. 1, 252–3; vol. 2, 167 (a); W. O. Hassall, *The Holkham Hall Library* (Oxford, 1970), 22–3, 39, and plate 78 (a).

Oxford, Bodleian Library, Holkham Misc. 48 [formerly Holkham Hall 514], fol. 19^{r}. ($1^{5}/_{16} \times {}^{15}/_{16}$ inches; 335 × 235 mm). By permission of the Curators of the Bodleian Library.

8. 'Judas in despair' crouches, vanquished, the suicide's noose round his neck, at the feet of Hope. Similar allegorizations of historical figures—'Herodes iniquus', 'Arius hereticus'—are at the feet of the neighbouring virtues of Charity and Faith on either side. The ideological or historical confusions present in this miniature are discussed in Chapters 10 and 11 (see pp. 323–5).

Nicholas of Bologna (properly Niccolò di Giacomo da Bologna) was the best-known master illuminator of his native city, where he led a workshop throughout the second half of the fourteenth century. Several of Nicholas's most ornate illuminations, like this one, are prefaced to collections of canon law, in this case Gregory IX's *Decretals*. Nicholas worked on it (possibly with the collaboration of Stefano degli Azzi) in 1354. The illustration shows only one panel in a large display of allegorical virtues and vices, reminiscent of the elaborate murals which adorned some contemporary churches. Most of the iconography was common property among decorative craftsmen.

Frontispiece, by Nicholas of Bologna, to a commentary on Gregory IX, *Decretals*, 1354. Milan, Biblioteca Ambrosiana, MS B 42 Inf. fol. 1^{r}. Detail.

Photo: Ambrosiana Collection, Mediaeval Institute, University of Notre Dame, Indiana. By permission of the University of Notre Dame and of the Biblioteca Ambrosiana, Milan.

9 (a). Autun (Saône-et-Loire), *c.*1132. This capital from the nave of the cathedral of St Lazaire, Autun, is a near-contemporary of that at Vézelay ((b) below). Although both figures have been identified as Judas, their character and context leaves this identification uncertain. Here at Autun, devils are portrayed as sole authors of the death (contrast Plate 10(a) below), while Judas' burst intestines and thirty pieces of silver are noticeable only by their absence. Although the Autun nave sculptures were executed as a single programme under the direction of a single master (Giselbertus: one of the few such masters whose name we know), their choices of subject reveal no coherent scheme: nine scenes illustrate the New Testament, twelve, the Old, while the others allude to a miscellany of non-biblical motifs like the legend of Simon Magus or battles of virtues and vices. Incontestable is the sculpture's grim vividness, not least in the naturalism of the (supernatural) devils. The date must be surmised from that of the cathedral itself, whose building had begun *c.*1120 and which was consecrated, unfinished, in 1132.

Cathedral of St Lazaire, Autun. Sacristy museum.

Photo: Lefebre-Pontalis/Archive Photographique, Paris/SPADEM.

(b). Vézelay (Yonne), middle or late 1120s. Like its equivalent at St Lazaire, Autun, the suicide on this capital in the basilica of St Mary Magdalen, Vézelay, has often been identified as Judas, but with no better support from form and context. The intestines and the silver are again absent; and although the Vézelay capitals, like those at Autun, were probably executed as a single project and even, perhaps, under a single master (unnamed), those in the nave follow no unifying scheme, such as might have obliged their authors to include Judas' suicide. Thus Old Testament themes predominate among the hundred-odd scenes, while references to the life of Christ are few, and several motifs are pagan, like the rape of Ganymede, and astrological sign. For all its anonymity, the artistry is again vivid, the realism of the extended tongue betraying the artist's use of his eyes in a France where hanging was common. The date must again be surmised from that of the building. The nave at Vézelay was rebuilt after a fire in 1120 by the initiative of Abbot Renaud of Semur (abbot from 1106 to 1128), a nephew of the Hugh of Cluny whose acquaintance with suicide was documented in *The Violent against Themselves*. So the Vézelay suicide capital may be, but is not necessarily, a year or two earlier than that at Autun.

Basilica of St Mary Magdalen, Vézelay. Capital in nave, upper level, south side, first pillar from west.

Photo: Lefebre-Pontalis/Archive Photographique, Paris/SPADEM.

(c). Rouen, last quarter of 13th century. Not only its position—on a tympanum—distinguishes the style of this Judas from the suicides at Vézelay and Autun, but the intervening development during the twelfth and thirteenth centuries of a new artistic style and cultural milieu. Among sources for the change was the burgeoning of theology at the University of Paris, a detectable influence, in its turn, on the sculptures of Notre Dame in Paris, begun just before 1200 and continued throughout the century, and indirectly an influence here. The sculptures on the main door of the south transept at Rouen, the door known as the Porte (or Portail) de la Calende, were nevertheless probably done by Norman craftsmen and show an affective, as against merely didactic, approach to Gospel incidents, an approach distinctive of these particular portals. It is responsible *inter alia*, in this detail, for the naturalistic clarity with which Judas' body is depicted, a feature present conspicuously in his legs and as in the repulsive extrusion of his intestines (taking up the *ēkágesen mesos* of Acts 1: 18). The figure with the flail is scourging Jesus, immediately to Judas' right. Work on the Portail de la Calende was begun in 1291, and the sculpture should probably be assigned to this date or a little later.

Rouen, Cathedral of Notre Dame, South transept, Portail de la Calende. Tympanum, second register.

Photo: Martin-Sabon / Archive Photographique, Paris / SPADEM.

(d). Freiburg im Breisgau, *c.*1300. The sculptures of the west portal and narthex of Freiburg cathedral, a showpiece of German High Gothic, reflect the preoccupations of a rising and self-confident town, its ducal overlord and urban patriciate wishing to draw on, even surpass, the best available in styles further west, not excluding Rouen.

On the tympanum above the main west door, the suicide Judas now lacks nothing either from the New Testament—the intestines and the thirty pieces of silver (precisely thirty: the Freiburgers did not make mistakes about counting money)—or from popular lore, source of the devil who makes off with Judas' soul. The tympanum sculptures probably date from *c.*1300.

Cathedral, Freiburg im Breisgau, west door, middle register.

Photo: Münsterbauverein, Freiburg im Breisgau. By permission.

Literature: a summary of current scholarship on all the above churches can be found in *Dictionary of Art*, ed. J. Turner (New York and London, 1996), at the appropriate entries (by K. Morrison (Vézelay and Autun), D. Gillerman (Rouen), and V. R. Kaufman (Freiburg)), with bibliographies.

10 (a). For most of the fourteenth century the leading ivory workshops in Paris made state-of-the-art forms of Gothic sculpture available to wealthy private citizens, as small diptychs or single panels. The carving of the hanged Judas in this example resembles that of the Freiburg tympanum in Plate 8 but in minuscule size. Judas is barely two inches high. The ivory diptych is typical of Paris production at its most elaborate. That the hanging Judas is set opposite the crucified Christ—albeit not as nearly symmetrically as in the British Museum box illustrated in the Frontispiece—may owe something to an accident of design (even the same workshop varied the arrangement of the Passion scenes, and occasionally Judas and the crucified Jesus appear on different registers), but remains striking.

Literature: R. Koechlin, *Les ivoires gothiques français*. 3 vols. (Paris 1924), esp. vol. 2, 285–93; vol. 3, plates 135–50; J. Gardner, 'The ivories in the Gambier-Parry Collection', *Burlington Magazine*, 109 (1967), 139–44, esp. 143; *The Gambier-Parry Collection. A Provisional Catalogue*. Introd. by A. Blunt (Courtauld Institute, London, 1967).

Ivory diptych. Paris, *c.*1350. London, Courtauld Institute, Gambier-Parry Collection, no. 8. By permission.

(b). In this illuminated page of a 15th-century Book of Hours, a rectangular panel depicts the death of Christ, while a smaller roundel below it shows that of Judas, from whose burst abdomen the soul is extracted by two devils with hooks. A comparable juxtapostion of the two deaths was shown in the Frontispiece, from a 5th-century ivory casket, but while the assocation there may reflect only an accident of the Passion narrative, here it implies commentary.

What commentary? If the artist conceived Christ and Judas simply as opposites he would have taken more care to emphasize their contrasting destinies, by means (say) of angels, to escort Christ's soul and fill the role of Judas' devils. He might also have left traces of an 'opposites' motif elsewhere in the codex, which has a total of seven full-page illustrations of this form. In fact the comment implied in the other roundels has more the character of typology, as in a *Noli me tangere* (where the resurrected Christ tells St Mary Magdalen not to touch him) below a panel showing a woman

with a halo at prayer (fol. 55^{r}), and a Visitation (fol. 61^{r}), edged by two roundels, one showing a naked Adam and Eve and their temptation by Satan, the other, below the panel (like Judas here), a fully-clothed couple with a halo, the woman pregnant (fol. 61^{r}).

Some of the roundel commentary may refer to private situations in the life of the patron who commissioned the manuscript, and no doubt to Franciscan advisers who helped design its contents (to judge from prayers to St Francis put later in the volume: fol. 273^{v}–274^{r}, cf. 157^{r}). This patron was certainly a wealthy noble, since all the 291 folios are luxuriously illustrated. A close look at the right-hand border of the present illustration will reveal, hidden in the floral decoration, the initials 'N' and 'P'. The initials are bound by vine-like interlacing, invisible here because their original pink colouring is too faint for the reproduction, but clear in the other full-page illuminations, where the same initials appear in inventively various places in the floral margins of all the full-page illustrations, as if the book was made to celebrate a noble marriage.

And just perhaps a hope that it would produce children. One panel (fol. 91^{r}) shows the Nativity, while in the lower roundel—that occupied by Judas here—a well-dressed couple pray to a miniature of the Virgin and Child (a picture within a picture, distinct, that is, from the big one in the panel above though clearly referring to it). The man kneels before the image in prayer, the woman's sympathetic hand on his shoulder. Another panel (fol. 40^{r}) has a Pietà, with below it a roundel showing another well-dressed woman, praying from an open book.

An identification of 'N' and 'P' might place the origin of the codex more closely. One possibility is that it was the infecundity of a noble marriage which brought the Book of Hours, unused—it is in near mint condition—to the monastery of St Vaast, whose own, more businesslike liturgical books would have relieved the monks of any need to use this one, and who guarded it until the Revolution. This juxtaposition of the deaths of Judas and Christ just may, therefore, reflect a particular event in the patron's life. It remains mysterious.

Literature: *Catalogue générale des manuscrits des bibliothèques publiques des départments*, vol. 4 (Arras, Avranches, and Boulogne) (Paris, 1872); O. Goetz, 'Hie hencktt Judas', in *Form und Inhalt. Kunstgeschichtliche Studien, Otto Schmitt zum 60. Geburtstag* (Stuttgart, 1950), 105–37, on pp. 133–4. M. Pascal Rideau, Keeper of Manuscripts in the Arras Municipal Library, informs me that his library register contains no record of an inspection of this manuscript since 1950, so I give the above brief allusions as the *état de question*.

Horae Jesu et beatae Virginis, medium octavo, vellum, 291 folios. Northern French (Amiens?), 15th century. Arras, Bibliothèque Municipale, MS 515 (formerly 789), fol. 47^{r}.

11. Illumination of an initial in William of Nottingham's Gospel Commentary made *c.*1397. The text (Matthew 27: 3) reads 'tunc videns iudas qui eum tradidit quod condempnatus esset, poenitentia ductus retulit [triginta argenteos . . .]', which explains why the miniature shows Judas twice, once unsuccessfully offering money to the

unwelcoming chief priests (left), and once as a suicide. The MS was made for learned clerks, who were spared anatomical detail but may, to judge from William's text, have been expected to understand Judas' penultimate act as a wrong-headed approach to sacramental confession. (See pp. 365–8.)

Oxford, Bodleian Library, MS Laud Misc. 165, fol. 530^{v}.

12. Illustrations of the longer, 11th-century version of the Legend of Pontius Pilate (see pp. 341–3), in a 14th-century parchment MS containing a *Vita Jesu Christi* and brief Latin legends, of French or Italian origin.

(a) On the left Pilate stabs himself in prison. On the right a devil thrusts Pilate's corpse into a river while another (or the same) prepares to extract it.

(b) The corpse ends its journeys in an Alpine well.

Literature: E. Pellegrin, *La bibliothèque des Visconti et des Sforza, ducs de Milan au XVe siècle* (Paris, 1955), 373; Schmitt, 'Suicide', 13.

Milan, Bibliotheca Ambrosiana, MS Lat. 58 Sup., fol. 68$^{r–v}$. Ambrosiana Collection, Mediaeval Institute, University of Notre Dame, Indiana. Reproduced by permission of the University of Notre Dame and of the Biblioteca Ambrosiana, Milan.

13. In *Jewish Antiquities*, the first-century historian Josephus told how King Herod the Great, afflicted by mortal disease, sought to kill himself with a fruit-knife but was prevented by his brother. A light, early medieval alteration to the story made the suicide successful, and it was told as such in one minority tradition, especially vigorous in England. (See pp. 343–56.) Plates 13–15 show Herod as committing suicide, its completion indicated by the blood and by a devil's escape with the departing soul—shown traditionally as a naked child. In Plate 16, by contrast, the princely hand on Herod's forearm, and the absence of blood, betray the more historically authentic tradition.

(a) Miniature on a detached leaf, almost certainly from the psalter written and decorated by 'Eadwine' of Canterbury. ($3^{3}/_{4} \times 3^{1}/_{4}$ in; 10×8 cm) Herod's death scene is placed as the last panel of a Nativity cycle of twelve miniatures, originally placed in the psalter. Made in Canterbury, at Christchurch or St Augustine's, *c.*1140. See pp. 343–56 (for this and the following four illustrations).

London, British Library, MS Add. 37472 (1) (detail). Photo: British Library. By permission of the Trustees of the British Library.

(b) Miniature on a leaf modelled on (a), possibly executed in France. Paris, Bibliothèque Nationale, MS lat.8846, fol. 4^{v}. Photo: Foto Marburg. By permission.

14. Illustration of a *Life of Christ*, *c.*1200, English (probably northern). ($5^{1}/_{4} \times 3^{1}/_{4}$ in; 12 cm $\times$ 8 cm) Herod's posture resembles that in 13 (a) and (b), but the ensemble is distinguished by the structure of the palace and by the postures of all other figures (notably the Devil). That the two left-hand figures are male is a tribute—almost the only one remaining—to the original story in Josephus. The text below, added several generations later from the *Legenda aurea* of James of Varazze, reads

'Remigius in originali super Matthaeum dicit quod Herodes Antipas gladio quo pomum purgabat se perimit'. (See p. 348.)

Formerly Dyson Perrins MS 1.

Photo: The Conway Library, Courtauld Institute of Art, London. By permission.

15. Psalter, Peterborough abbey, *c.*1300. Like the other typological miniatures in the Peterborough Psalter, this one relates a New Testament episode—in this case late and apocryphal—as an 'antetype', foreshadowed by Old Testament 'types' (on the left), the suicides of Saul and his armour-bearer. The inscriptions read: (top left) 'Se Saul occidit, proprio dum corde relidit' ('Saul kills himself when his own courage fails'); (bottom left) 'Dicit ut heresis, se sponte Doech Idumeus' ('Doech the Idumaean speaking heretically, of his own accord . . .'); (continuing, bottom right) '. . . ferro transfodit metuens quod eum David odit' ('. . . impales himself on his blade in the belief that David hates him'; (top right) 'Macronem dira sic Herodem necat ira' ('Thus dire anger slays Herod the Great').

Brussels, Bibliothèque Royale Albert I^{er}, MS 9961–2, fol. 24^{r} (detail). By permission of the Librarian of the Bibliothèque Royale.

16. Fresco in the monastery church, Lambach, Upper Austria. Late 11th century. In the coloured fresco, the purple clothing of both Herod and the man behind him prove both to be of princely birth, as in Josephus' original account. The knife has not penetrated the king's body. The winged figure above Herod's body, aiming his spear downwards at him, may be a devil momentarily disappointed. The wicked king would die very disagreeably a few days later.

Photo: Hofstetter Kunstverlag, Ried/Innkreis. By permission.

List of Figures

Fig. 1 Methods of suicide in legal formulae 437
Fig. 2 Methods of suicide in judicial records: (a) England, and (b) France 437
Fig. 3 Methods of suicide in chronicles and religious sources 438
Fig. 4 Egyptian hieroglyph: blood pours from a man's head 587
Fig. 5 Egyptian hieroglyph: a man strikes himself in the head with an axe 587

List of Maps

Map 1 The Empire and contiguous areas, to indicate the origins of law books quoted in the text 21
Map 2 France and Germany, showing the geographical extent of the threshold ritual 27
Map 3 The geographical distribution of evidence for the barrel ritual 39

Introduction

My guide and I then stepped on to the track
that led back to the daylit world above,
and, without thought of rest, or looking back,
We made the ascent.

Dante, *Inferno* 34: 133–6[1]

The history that begins here forms the second of three parts of *Suicide in the Middle Ages*. The larger, threefold book or study was conceived as a unity, and tries, through that unity, to realize a single perception of human experience, from its depths to its heights. It doing so, in the form of one-in-three, it aspired distantly to model itself on a classic with the same purpose as the one just defined, seven centuries ago, namely Dante's *Divine Comedy*. It is therefore natural to borrow Dante's words as he passed between Parts I and II, in the course of a long journey through the kingdoms of the dead. At the end of *Inferno*, he and *his* imagined guide, Virgil, climbed with miraculous dispatch the thin stair that led from the deepest subterranean hole in Hell up to the *chiaro mondo*: the world lit by the sun, where the rest of Dante's pilgrimage would lie. A moment later, at the opening of *Purgatorio*, the pilgrim Dante reaches that open-air world under the stars, and the poet Dante betrays a sharp injection of optimism as he knows that the barely tolerable ordeal of Hell is now behind him:

This little ship, my spirit, hoists its sail
To run through kindlier waters now; my ship,
Which leaves that harsh sea in its trail
[Per correr miglior acque alza le vele
omai la navicella del mio ingegno,
che lascia dietro a se mar sì crudele.]

Those words apply now.

But Dante was a poetic master-craftsman, and did more with those lines than utter his relief. Implicitly, he was plotting out the relationship between

[1] 'Lo duca e io per quel cammine ascoso / intrammo a ritornar nel chiaro monde; / e sanza cura aver d'alcun riposo, / salimmo sù.'

his first and second parts; and his example is an invitation to me to do the same. The earlier Volume of the present work, *The Violent against Themselves*, was about medieval suicides—what the French call the *suicidés*. This volume and the next will be about attitudes to suicide among the living, attitudes which themselves divide, on their own, into two categories, belonging respectively to the spheres of jurisprudence and of psychology, and which account for the distinction of the two later volumes. In approaching this second part of the enterprise, besides allowing ourselves that expression of optimistic relief, we must prepare for new conditions of work: a change, that is, not only of mood but of historiographical approach. The need for this change is not hard to explain. The subjects of the previous volume were a few fugitive individuals, trying to hide and discoverable only by the diligent interrogation of a wide variety of documents, themselves usually reticent. The subjects of the present volume will be, not a few fugitive individuals, but the thoughts of whole societies, societies consisting of millions, thoughts which demand new strategies of investigation. The investigation will be made by way of laws, written and customary, of rationalizations of those laws emanating from the more philosophical of those who thought about them, and finally, and more elusively, by way of social forces that moulded both the laws and their rationalizations.

A painter, changing his subject-matter from portraits of persons to the landscape of a wide countryside, will move his easel to take account of new kinds of view. In turning from one kind of medieval subject to another, we need to do the same. Of the two ways in which this is best done, the second will be identified in its place, later. The first, right at the start, will occupy the next few pages, whose purpose will be to carry a brief reflection on the relationship between the subjects from and to which we are turning; between *suicidés*, that is to say, and the rest of society, the non-suicidal 99.998 per cent (or thereabouts). The relationship will be subject to reflection both in general and as it applies in any historical period; and it will be approached in terms of a concept familiar—and growing more so day by day—to all of us who find a moment to wonder about the vast, puzzling complex of nature of which we all form part.

Nature and Waste

Seen from one point of view, a human society is a kind of big animal. It is a living, developing organism, each of its individual members a mere cell. Most days of the week you and I would feel more individualistic than this and think it is *we* who are the single animals. After all, each of us is conscious of having his or her own free will, and we only grudgingly allow that attribute to a col-

lective. But think for a moment about this free will of ours. Is it really so free? Have not other people—parents, say, and teachers, not to say *their* parents and teachers, and for that matter our fellow men and women in very large numbers, in fact whole civilizations—gone a long way to make you and me what we are—say, respectable and literate ladies and gentlemen as distinct from beggermen or thieves? In criminal courts we are forever hearing psychologists excusing beggarmen and thieves on these very grounds, and we are forever being told—for intrinsically respectable reasons akin to those the following chapters will examine—to shut up, for fear of driving the notion of individual moral responsibility right out of the vocabulary. That debate is endless, the very substance of history:

> Time makes old formulas look strange
> The properties and symbols change
> But round the freedom of the will
> Our disagreements centre still.[2]

And these disagreements about free will would not happen at all if there were not *some* truth in the idea that society is an animal, with a will and everything else, making us, as individuals, its mere cells. Political philosophers, for their part, have long accepted an analogy between society and Leviathan, the giant animal composed of millions, and it is no accident that the thinker who first put them on the scent of it was a biologist, namely Aristotle, who looked at his Greek *polis* as the most mysterious of living organisms that crowd on the earth's surface.

It will now be easier to relate the subjects of Volumes I and II of this book, the suicide and everyone else. For if society is one big animal, the suicide is a rejected cell. Which does the rejecting, the organism or the cell, does not matter for the present purpose. What does is that one cell is subtracted from the sum of conscious wills that make the mind of the larger animal, and the cell becomes a kind of waste. This biological idea of waste has also become familiar in modern politics, because it is the ambition of every industrial economy to recycle its waste. That too is sound biology, since nature herself recycles. Stuff useless or harmful in one context is reused in another. The wood of a rotting tree becomes food for grubs which in turn are eaten by birds, and so on. Nature's recycling is not a matter of happy chance. It happens by necessity, since living organisms exist—indeed *subsist*; they are what they are—by a never-ending process of choice between alternatives. By putting its root down in one direction, a plant rules out doing so in another. By eating one bit of lettuce, a caterpillar ignores another. Food, once ingested, is split into good and bad, healthy or unhealthy, by permanent organs which

[2] W. H. Auden, *Collected Longer Poems* (London, 1968), 124.

exist for the purpose, and which reject the unhealthy as waste. Life entails choice. Choice entails waste.

This rule applies to the social organism. A grub rejects a bad bit of lettuce. A commercial market may reject a poor model of car (or a poor lettuce for that matter). Democracy may oust a government. Every time a young woman gets married there are men she is *not* marrying, sometimes to their distress. Social waste takes thousands of forms. Some forms are abstract, like outworn ideas and techniques, once useful but now worthless or harmful. Other forms are concrete, like people, hostile or useless to the society's purpose. These are the violent, who endanger everyone else; rebels, who threaten the ideology that binds citizens together; and the economically useless, like the weak and old. Again it hardly matters who says these people are waste. It may be law-courts who say so, or a community like a village or tribe, or sometimes the waste cells themselves, as with suicides. The central mechanism is the same: the dangerous or useless have no more part in the community and are better killed or locked away. It is not cynicism to say so. From an unsophisticated, biological viewpoint, these people *are* waste, and from this angle history is itself is little more than the story of how different cultures have identified and handled such waste; because all must, somehow. The ways in which they have done so—each way appropriately bedecked with an ideology trusted by contemporaries—have varied within measurable limits: at one extreme the rejects being killed outright as criminals, rebels, or infirm (these last having been sent early to their deaths by various kinds of euthanasia, not excluding compulsory suicide)[3]; while in more moderate cultures they are just marginalized by being locked up, disgraced, or allowed less money, so that they have less claim on the services of everyone else. All this is unavoidable. A society, it does not need repeating, has to live. Life entails choice, and choice entails waste.

But between human society and less conscious organisms there exists one big difference. *Homo sapiens* has got where he is by being wise, *sapiens*. That adjective could be translated 'sensitive and intelligent'; and the sensitivity and intelligence have jointly a radical effect on the human waste-disposal system. They mean that one cell of the organism can put itself in another's place by a kind of thought-transference, a kind we experience every day and which is called sympathy, from *sympatheia* in Greek, 'suffering with'. In what we call civilized society—which usually also means powerful—it would take a person of a callousness scarcely imaginable to eat his breakfast placidly if someone else was being killed behind his chair or under the table, even if the killing were part of an ideologically sound waste-disposal system, an 'execution'. Emotional hard nuts of this kind have indeed existed, in the shape of tyrants

[3] See p. 566 below.

notorious for affecting pleasure at the execution of criminals or enemies; but the fact that they are notorious makes them an exception proving the rule, which is that *some* sympathy exists, somewhere. It does so not because the nervous systems of different people are connected—as happens only partially with Siamese twins, but anywhere else would take inconceivable surgery—but because a pain in *your* leg can, under the right circumstances, make me feel a kind of pain in mine, so that I say to you 'O, that *must* hurt' and (at least if you are my friend) offer you ointment or a bandage. We all recognize this experience. It is part and parcel of our existence as *Homo sapiens*, and is again unavoidable.

The social organism, therefore, has two unavoidable features in conflict. It must produce waste yet must also sympathize with the waste. So it is uneasy. The living cells—the non-waste—cannot think about the rejects without exposing themselves sooner or later to the thought, not just 'it *could* be me' but 'it in a sense *is* me.' Illustrations of the tension will be found in this volume and the next. A particularly arresting one (not otherwise in this book) is the custom, of immeasurable antiquity and still commonly practised in countries retaining capital punishment, of blindfolding a criminal just before he is executed, as if his eyes might convey a message to his executioners they could not bear.[4]

Now some historians would be perfectly happy to recognize all this and give it a simple explanation. Sympathy for executed criminals and suchlike, they would say, reflects the influence of Christianity. But carts and horses must be got in the right order. A capacity to sympathize arises from qualities innate in *Homo sapiens*, that is, his sensitivity and intelligence, without which he could not be king of the animals, and anyway it was classical Greeks, not Christians, who coined the word 'sympathy': Aristotle used it in the fourth century BC, and meant more or less the same by it as we do. So as a historical movement Christianity certainly cannot have started it off; indeed, cart and horse might even be the other way round. To adapt Voltaire's witticism (he said it about God), if Christianity had not existed it would have had to be invented. That is, Christianity was needed to articulate tensions innate in the social organism. All that has to be granted to Christianity is that it would have had to be it, not any other religion, that was invented for this purpose, since its central theme—without which it would not be Christianity—is designed precisely to meet this dilemma. The social organism was Israel. The source of its life, and therefore of its need to choose and reject, did not merely *have* sympathy, he *was* sympathy, and because of it he let himself be cruelly killed as a reject. God *became* waste. Early exponents of Christianity never tired of pointing this out.[5] On this reading the Easter story was scarcely a miracle,

[4] F. Ström, *On the Sacral Origin of the Germanic Death Penalties* (Stockholm, 1942), 242–4.
[5] e.g. Mk 8:31; Lk 9:22 and 23:18; Rom 8:3; Phil 2:7; cf. Is. 53:3.

more a logical consequence, since the Resurrection brought the 'waste' back into the life-cycle, and—because the wasting had been voluntary and accepted out of love, that is, *pure* sympathy—it re-entered not just anywhere in the cycle but at the top. 'The stone rejected by the builders has become [read: not miscellaneous in-fill, but] the headstone of the corner' (Luke 20: 17).

This construction may have its weak points—logical and biological as well as theological—but it has been worth formulating for a momentary purpose, that of sweeping the portraits of Volume I and the landscapes of Volumes II and III into a single view; for they all represent parts of a single organism, living and growing, creating its waste and seeking to recycle it. Between those parts, the waste and the non-waste, the investigation can now proceed, and partake in the recycling process. Readers of *The Violent against Themselves* will recall that its central chapters consisted of single portraits of suicides, while Chapters 15 and 16 ('Towards Statistics'), ended the volume by gathering the subjects of these portraits into a single group and bringing them, dazed as if they were migrants going back across Charon's ferry, halfway back to their host society, so that their ensemble could begin to reveal things about pressures and difficulties among their surviving contemporaries. To complete the progress it is to these last, the contemporaries, that the investigation now has to turn, and ask them, through every means of communication it can lay hands on, what they thought of suicide.

A Simple Question

What *did* they think? It sounds a simple enough question, nothing simpler; but the simplicity is deceptive. The question is in the first place multiple. Survivors, the non-suicides, were of many kinds, many more than the suicides, so relationships between living and dead had to cover a wide range. If even a single survivor, after all, confronting a single suicide—say, of a family member—might have more than one attitude to suicide and be confused, how much more an entire culture with its millions of people with different temperaments? So it should be no surprise that answers to that apparently simple question will fill two volumes, or that, as the issues come out of hiding, they will lead into the furthest-flung areas of medieval culture. I shall distinguish answers to the multiple question into two categories, of which only the first will occupy this volume. In the first category, the survivors answer the suicide in kind: the suicide was a waste product who had rejected them; so they rejected him, said he was damned for ever, and disgraced his memory. The other, to be treated in Volume III, will take account of the schizoid character

of the human organism, which cannot treat its waste products as lower natural organisms do. The medieval caring professions—doctors and philosophers, poets, and priestly confessors (who knew plenty about the private thoughts of sufferers)—will be heard reflecting on the emotional antecedents of suicide as elements in a shared human condition. The three parts of the book will thus complete a Hegelian dialectic. The suicides are the thesis; the curse, the antithesis; *The Mapping of Mental Desolation* the synthesis, pulling the suicides back into one family.

That paradise nevertheless remains far ahead, the task in the present purgatory being to investigate the subject of its title, *The Curse on Self-Murder*. Some of the documents exploited in the first volume will be recognized; but there, they were features of a landscape seen from a distance; here, the landscape is all around and opens on to new views beyond. The change from portraiture to landscape demands new principles of method. Volume I was a chronicle of opters-out, who could be studied in series, atomized as they were when they died. The history in the present volume will be an emphatically social history, one about deliberate opters-*in*, caught in the act like the suicides but caught in a different kind of act, clinging to their social cohesion, cursing the deserters, a living, centripetal, hugger-mugger mass.

Before brush is put to canvas for the painting of the new landscape there is one further preliminary. There are certain peculiarities of the scene to be painted, peculiarities unique to suicide as a subject, which call for an appropriate approach. It may be recalled that analogous peculiarities were identified for the *suicidés* in Volume I.[6] In this case as in that, they are of two kinds, some touching the evidence alone while others are conceptual. Here, as there, the evidence is reticent. Most medieval people did not wish even to *have* attitudes to suicide, much less to reveal them, so they wrote and said little of suicide as an abstract subject, just as they wrote and said little about individual cases. If in this field too their silence was broken by violent exceptions, these exceptions, like those in Volume I, only emphasize the taboos the silence was meant to guard.

Other documentary peculiarities will appear in due course, but let us turn now to the conceptual kind. They are three. The first is a paradox, of the kind used in the children's game 'when is a door not a door?' In the present field, more than in others, a medieval document is not a medieval document, because the cultures and attitudes of more than one epoch may lie hidden in it, as the New Testament 'contains' the Old. In respect of literary documents scholars call this phenomenon 'intertextuality', which arises when one text contains others, and in the present volume its importance is paramount for a

[6] *The Violent against Themselves*, 9–14, 21–2, 41–2.

reason which medieval views on suicide share with no other subject. The two main cultures present in the documents were Catholic Christian and Stoic Roman, and these two differed radically about suicide. It was not that they just happened, by chance, to differ, as if falling out on a marginal detail. Suicide embodied their essential differences right through, differences often invisible in other aspects: it was their Strait of Gibraltar, the point at which two vast continents peered at each other in opposite directions. I hope to show that it was because the old culture still lived within the new that suicide, their ideological point of opposition, had in the end to be addressed, despite that hinterland of reticence. The best illustration of this will be in respect of medieval poetry, in Volume III. But it will already be clear at many points in the present volume.

A second conceptual peculiarity, this time in attitudes to suicide in general, is an apparent tendency to oscillate. In the face of suicide as an abstract subject, people are either morally indifferent or have strong views. In medieval documents the oscillation is most conspicuous in the corpus of written law, which includes old Roman authorities studiously indifferent to suicide, and canonical texts strongly condemning it; but there will be other examples, visible within classical philosophical traditions on suicide and, in a medieval context, in reactions to those who only tried to kill themselves and failed (they earn a place in Chapter 12).

This oscillation is one aspect of a third peculiarity in suicide as a subject. It is a maverick. Whether we look at it semantically, ethically, or legally, suicide behaves oddly within the system. This feature was present already in the study of *suicidés* in Volume I; there, though, it was part of a landscape seen from a distance, whereas here it will be all round us. Suicide's maverick character can best be demonstrated by a series of difficult questions suicide poses. Semantically: is the suicide's act passive or active? Ethically: is his act supremely self*ish* or self*less*? Legally: is the suicide a victim of crime, or a criminal? For that matter, on what principle can a criminal law-code, whose very purpose is to punish offences, list among them the one human act least susceptible to punishment? These are a mere sample of the problems raised by suicide, which we shall find tends to make havoc of the conceptual geometries which normally regulate human lives. In this, again, suicide as an abstract subject is like the flesh-and-blood suicide, an odd man out.

I mention these peculiarities incidentally as a forewarning, but principally because they dictate a strategy of approach. Medieval suicides baffled historical study because each person who killed himself was the ultimate individual, deliberately cut from the human networks that fill the historian's object-glass.[7] Attitudes *to* suicide baffle historical study for an analogous reason but

[7] *The Violent against Themselves*, 42–4.

in the world of ideas. Being a conceptual odd man out, suicide attracted reactions of a kind that only partially correspond with normal historical and literary categories. Suicide, mentioned or unmentioned, remained too important a matter to be housed in any one of these. This was not least because of chronology. The configuration of literary categories is at any moment a function of a particular culture: times and literary genres change. But we shall find the history of attitudes to suicide as a supreme case of *l'histoire de la longue durée*, so that any development the attitudes undergo is a slow development, often palpably starting before and finishing after a particular genre of documents invoked to reveal it. Put another way: if suicide was too dreadful to mention in normal conversation, that was because it referred to the most important extremity of common human interest, the avoidance of a dreadful death, an interest more urgent even than food, housing, and defence; and so sovereign an interest runs too deep to be contained in the legal or literary distinctions of any one age.

All this means that one avenue of approach to the subject is closed: the avenue by way of genres of historical document, because genres come and go they can mislead. The only approach left is therefore analytical, one based on the logic of this or that question, and ready to conscript whatever documents may answer it. But we know our question. So let us, having made all these general and particular preparations, pose it again and see where its logic leads. What did medieval people think about suicide? The logic leads at once to a commonsense conclusion. Most medieval people probably did not think about suicide at all. Like modern people they had other things to think about, and preferred not to dwell on painful subjects. Here should be an end of the matter, and of any attempt to investigate it historically. There were nevertheless exceptions, and a start must be made with the main one: the man who, returning perhaps from work one day, thoughts on non-painful subjects, came through the door of his house and saw a corpse hanging there, clearly self-hanged. Someone in that position *had* to have an attitude, or find one, fast.

1

The Body

To stumble on a suicide's corpse was to face a horrible sight: one not unlike the sight Lucan had in his mind's eye when he imagined a corpse rising from the dead through necromancy: 'It was the face not yet of a living man . . . but of one still in the act of dying.'[1] The sight had not been meant for curious eyes, certainly not the historian's. The same normally went for the finder's reaction. Since the act of suicide was brutal and the first reaction likely to be one of shock, the historian will have to cut his way to a vantage-point from which to witness it. This chapter and the next will do that, seeking out what people *did* after a suicide, leaving theories to be explored afterwards. What *did* people do, when someone killed himself? There were two practical problems that could not be avoided, whatever one's doctrinal position: respectively, what to do with the body and with the property. The former was the more immediate.

The Evidence

The ways in which suicides' bodies were treated are normally harder for the historian to discover than the suicides themselves, yet it is these ways, which constitute the survivors' most immediate reaction, that best reveal the attitudes that lurked under the surface of law. Details and nuances are important—if action is to be read correctly as a guide to thought—and if these details and nuances are unknown it is only too easy to slip modern presuppositions into the blank, and repeat simplistic views no one can check (for instance, about the role of the 'Church', or of superstition, in the handling of suicides).[2] So I shall proceed on a pedestrian basis, establishing step by step as

[1] *Pharsalia*, 6, 758–9: 'nondum facies viventis . . . iam morientis.' Cf. *The Violent against Themselves*, 6. Henceforth I shall flag reminiscences to the earlier volume only when comprehension requires it.

[2] 'The Church': early and late examples respectively (from many in between) are G. Garrisson, *Le suicide dans l'antiquité* (Paris, 1885), 88 ('l'influence de l'Église devient dominante'), and D. Majetovski, 'Selbstmord: Rezeptionstypen eines tabuiserten Motivs', in D.

many details as possible, which will be there to provoke and feed theoretical discussion later in the volume.

Because details and nuances are often hard to discover, it will be best to start with remarks about the sources, and the principles to be followed in their exploitation. The most important principle (the same that underlay the hunt for the suicides in the previous volume) is the principle of the 'wide net', a net catching evidence of many kinds. The rule will have three applications. First, a wide net will be cast for *types* of document. The main literate professionals in the field were lawyers, and we must guard against relying on only one or two of their number. A few legal sources in particular milieux say a lot on what is to be done after a suicide, but many say nothing, and the most learned of all reveal not only that *they* do not know what all the practices are, but that nobody knows. There are too many variations. It is they who say so, and in case this is not believed a few of their testimonies are worth hearing. A sermon by an early fourteenth-century expert in Languedoc will carefully refer to indignities that are 'sometimes' inflicted on a suicide's body as if he could not always be sure when this happened.[3] An Italian canonist, roughly contemporary, was remembered later as having insisted that the treatment of the body is at the discretion of an individual judge.[4] The most influential civil jurist in later fourteenth-century Italy would forever be counselling judges whether to follow this custom or that, which they might find locally.[5] Evidence of variety grows louder in the late fifteenth and sixteenth centuries: not, surely, because variation was growing, but because learning was becoming more uniform, and hence more aware of differences. Thus around 1500 a Norman commentator will gloss a text on the treatment of a suicide's body, 'this is at variance with the common practice and observance of judges.'[6]

Kaiser (ed.), *An den Grenzen höfischer Kultur* (Munich, 1991), 237–63 ('[eine] Tabuisierung des Freitodes durch der mittelalterliche Kirche'). Superstitions: see n. 162 below.

[3] Pope John XXII, Sermon, Paris MS Bibl. Nat. lat. 3290, fol. 17^{vb}: 'quia *aliquando* illud facit' [etc., see p. 239 below].

[4] Cino of Pistoia [†1336], quoted by Bertachinus, *Repertorium* [*c.*1471] (Venice, 1590), vol. 3, fol. 460^{v}: 'Sed . . . Cyn[us] contra Bal[dus] vero ibi dicit esse in arbitrio judicis. Sed idem Baldus tenet quod non.' I have not found any passage in Cino which corresponds with this view and if, as I believe, Bertachinus is mistaken, it only highlights the imperfection of a jurist's knowledge. The identities and biographies of these jurists are given by H. Coing, ed., *Handbuch der Quellen und Literatur der neueren europäischen Privatrechtsgeschichte*, vol. 1, *Mittelalter* (Munich, 1973), 129–364 (two chapters respectively by P. Weimar and N. Horn).

[5] Baldus, *In Codicem*, De episc. et cleric. 'Si quis non dicam': in *Commentaria*, vol. 3 (Venice, 1615), fol. 36^{v}; 'ita enim debent assessores observare consuetudinem, sicut statutum, et ita debent puniri de transgressione consuetudinis, sicut de transgressione legis scriptae, dummodo sit consuetudo publica et notoria'; and more generally in H. Lange, *Die Consilien des Baldus de Ubaldis (1400)* (Mainz, 1974), esp. p. 43.

[6] Johannes Igneus, *Comm. in tit. Sill. et Claud, sen. cons.*, 'Si sibi manus', §21 [(Lyons and Orleans, 1539), fol. 96^{r}]: 'qui textus est singulariter contra communem praxim et iudicum observantiam notandus'; §42 [fol. 96^{r}]: 'licet assessores passim aliter observant'.

Italian colleagues give similar witness, some emphasizing vertical variations, some horizontal. 'Whatever the law says,' Clarus of Milan was to write *c.*1570, 'practice certainly holds and observes the contrary';[7] while his opposite number in Rome will write of horizontal variations on both learned and customary levels: 'opinions among jurists have varied, and practice itself likewise varies.'[8]

All these jurists had practised as judges, yet even they, for all they knew from both book-learning and experience, confessed to possessing only limited knowledge of what the courts actually prescribed. When they did describe it they did so from their own memory and area of experience, or from a colleague's.[9] Thus the anecdotal character of their evidence, valuable anyway for its vividness, is also valuable because they offer no other: not even lawyers, that character proclaims, knew the whole truth. On these grounds, as well as on others, the historian must bring in witnesses from elsewhere—chronicles, miracles, sermons, and the rest—besides those offered by professional lawyers.

That is the first application of the wide net principle. We must not confine ourselves to the testimony of a few lawyers. The second application will be geographical, and that also deserves justification. Certain well-documented modern studies exist of the legal treatment of suicides in particular areas, notably Bayet's book on suicide in France, and several for southern German cities.[10] These monographs will be collated here first. The sparseness of all evidence will again be one reason for gleaning it from everywhere, but now there is a more important reason. Much of our search will be striking one of those strands of human behaviour that can be described as stretching from 'law' at the top to 'lore'—l-o-r-e—at the bottom, that is, between codified and customary *law* (at the top), and folk*lore*. The lower part of this strand is a Scarlet Pimpernel of historical evidence. Like that proverbial secret agent, it slips easily across political frontiers, which makes the geographical plotting of a given custom particularly important, because it can reveal how far a particular custom is, on one hand, itself a Scarlet Pimpernel and crosses political frontiers, or how far, by contrast, it sticks within them, and this revelation will

[7] Julius Clarus, *Liber quintus recept. sentent.*, quaestio 51, §15 [(Frankfurt, 1613), p. 187]: 'Sed certe quidquid sit de iure, contrarium praxis tenet et observat.' Cf. Quest. 68, §37 [p. 243]: 'Occidens autem seipsum moritur intestabilis, quia scilicet rumpitur et annullatur omne testamentum prius ab eo factum. Et est communis opinio . . . Regulariter tamen eius bona non confiscantur.'

[8] Prosper Farinacius, *Praxis . . . criminalis.*, lib. 1, tit. 1, quaestio xi, §80 [(Frankfurt, 1597), p. 134]: 'Et licet in iure varii varia dixere, ita vario modo practicatum fuisse.'

[9] One of many striking examples is Farinacius's experience in his own vineyard; see n. 172 below.

[10] Listed in the bibliography under the author's surname. The principal studies of German cities, used in this volume, are those by Dieselhorst, Kriegk, Rau, and Schär.

help place the custom on that vertical scale between 'law' and 'lore'. That is, the less a practice obeys political geography the more likely it is to be *lore*. (This chapter will prove the value of this rule in respect of two customs, one of which will be shown to have been more, one less, folkloric than a less methodical investigation might have led us to suppose.)

The wide net principle will be employed, then, in respect of kinds of source and of geography. Its third application will be in chronology. Like geography, chronology is especially important on the 'law'/'lore' vertical, and for a similar reason. Some human beliefs and customs—especially those concerning the disposal of the dead[11]—tend to be age-old. Others grow up in response to particular pressures. Yet others, again, are a mixture of the two. It is important, as before, to establish the chronological profile of a belief or practice if we are to know to which of these categories it belongs.

Since this point is both elusive and important, I would once again like to illustrate it by an example, one which lies at hand in an influential mistake, made in another field than suicide but involving comparable methodology: witchcraft. The first major academic writer on European witchcraft was Margaret Murray, whose *The Witch-Craze of Western Europe* was published in 1921,[12] republished in paperback in 1962, and often reprinted later. It achieved such esteem that successive editions of the *Encyclopaedia Britannica*, until 1969, carried an article on witchcraft by the same author, which simply summarized her book's arguments as if they were fact. Today, it is generally agreed that a serious witch-craze—a belief in a huge conspiracy of magical women who fly through the air at night and steal babies—did not originate until the middle of the fifteenth century, grew to a peak in the seventeenth, and declined in the eighteenth.[13] Since the last two stages are better documented, it was easy to assume, if one wished, that the witch-craze belonged among age-old beliefs which had survived under the helpless disapproval of the medieval Church. This was the assumption Margaret Murray made, and she 'documented' the medieval part of the story by the use of what she claimed was contemporary evidence, when all of it, but for a few scraps, came from the sixteenth and seventeenth centuries.[14] As in most persuasive error, there was and is a grain of truth in Margaret Murray's assumption. Beliefs which seem strange to us often *are* very old. But a grain of truth is not

[11] The tenacity of burial customs is remarked on by, among many students in this area, J. de Vries, *Altgermanische Religionsgeschichte*, 2nd edn, 2 vols (Berlin 1956), para. 141; vol. 1, pp. 187–8.

[12] Clarendon Press, Oxford.

[13] N. Cohn, *Europe's Inner Demons* (London, 1975), esp. pp. 164–205; K. Thomas, *Religion and the Decline of Magic* (London, 1971).

[14] 'Contemporary': e.g., Margaret Murray 11, 28, 173, 197. Examples of such assumptions can be found on almost every page of her book.

much; and more fastidious investigation—which includes the critical investigation of strictly medieval evidence—has shown that the theory of the witch-craze rests on no genuinely medieval evidence at all before the middle of the fifteenth century.[15] If the Margaret Murray theory lingered long, that was partly because it was protected by a general assumption that the medieval evidence might be hard to come by, so that its absence was not taken seriously as proof of anything, and there is a grain of truth in that too. But again, it is not true enough, and the entire theory has now had to give way to one not only better documented, but with more explanatory power, a power it acquires because, by dating the rise of the witch-craze more precisely, it puts the craze into the category of enthusiasms generated by particular contemporary conditions, and that helps with what scientists would call its aetiology (from *aitía*: cause). In other words, it is only when we know the true chronological trajectory of the witch-craze that we can start thinking profitably about what caused it.

It would be reassuring to think that Margaret Murray's method, as well as her theory, was now discredited. But those wily adverbs of time—'as late as', 'still', 'already'—are still capable of doing mischief,[16] and my first safety rule in what follows will be caution in their use. Post-medieval evidence, with or without adverbs of time, may have to be used *faute de mieux*, but will be used with two provisos. It will be allowed to serve as an eye-opener to illustrate patterns of thought or behaviour present in the medieval evidence but too obscure to be seen unless, alerted by a modern analogue, we search for them. Secondly, late evidence can be used for inference about an earlier period when there are positive grounds for thinking it reflects an old and stable tradition. Such positive grounds can come from the late writer himself, as when a lawyer writes, in 1414, of a particular custom, relating to suicides' bodies, expressly as 'old'. That lawyer may have been mistaken, of course, but I shall allow his right to be believed unless there is reason to think otherwise.[17] Again, the same Norman jurist of *c.*1500 I mentioned a moment ago will speak of a certain practice as sanctioned by 'custom and long usage',[18] and the same rule

[15] Cohn, *Europe's Inner Demons* 99–146; on Margaret Murray, 107–8.

[16] It would be tedious, as well as invidious, to list historians of suicide law who have suffered from this problem. It is endemic, for instance, in contributions to Baechtold-Stäubli's great *Handwörterbuch des deutschen Aberglaubens* (1922–42) and most of the literature before it, including the three seminal articles by Karl August Geiger (1889–91). For a recent example see the discussion of suicides as ghosts on pp. 471–8 below. My identification of the fault is, of course, no guarantee of my immunity to it, but it is to the common good to know the danger is there, and avoid it.

[17] Printed by J. B. Cannaert, *Bydragen tot de kennis van het oude strafrecht in Vlaenderen* (Ghent, 1835), 282–4, on p. 283: 'ghelye men met sulcke kadavers pleegt te doene naer de costume van den lande van Vlaenderen.'

[18] Joh. Igneus, *Comm.*, §78 [fol. 99v]: 'qui frequens est in Normannia, in qua consuetudine seu diutino usu archiepiscopi et episcopi . . .'

applies there. Alternatively, and lawyers' own utterances apart, there may be independent grounds for thinking a particular group of customs tenacious, as is the case with some 'customaries', but only some: a customary was a document whose avowed aim was to record what was actually done, rather than to prescribe, but that can work both ways, since the recording of something as a 'très ancienne coutume' may indicate that some people doubted its antiquity. The one important principle in the interpretation of customaries is that, however 'primitive' the customs may appear to us, or are claimed to be, we should not assume, without any reflection at all, or consideration of the conventions of the source, that they are chronologically early.

Types of source, geography, and chronology: a 'wide net' will help in all three respects as well, as in yet other respects, too many to itemize fully. But one more is worth mentioning, even though full justice cannot be done to it. If, voyaging straight back to the Middle Ages from the modern world, we come to ground on a particular custom, our modern instinct is to misunderstand it unless we look, not just forwards at the future but also sideways, at comparable contemporary practice. The best illustration this time, again one of many, concerns not so much witches as heretics. As is well known—perhaps indeed it is the best known of all facts about medieval heresy—in the last three medieval centuries, in some parts of Europe, people whom inquisitors sentenced as obdurate heretics could be burned alive. It seems to us a punishment of scarcely imaginable horror, and it cannot avoid influencing our understanding of the history of religious orthodoxy in general. But the burning of heretics is rarely seen in the context of other supposed offences people could be burned for. The list begins with *maleficium* or enchantment, together with the closely associated *veneficium*, or poisoning, and goes on (commonly) with arson, and includes sodomy, infanticide, and some other kinds of parricide at certain times and places, especially if the culprit were a woman for whom hanging was thought inappropriate.[19] Burning for these offences might be so routine as not even to reach the chronicles. That of a heretic was more of an event, so it was included; and it is the only class of medieval burnings still conspicuous, for that reason, and perhaps also because of presuppositions born not so much from historical study as from the conditions of modern life.

So the fourth respect in which I shall employ the wide net principle, if perforce sparingly, will be in respect of penal custom, in that I shall occasionally glance at these customs as they touch acts other than suicide. If any reader

[19] Ström, *On the Sacral Origin of the Germanic Death Penalties* (Stockholm, 1942), 188–92. In the archives of late medieval Frankfurt Rau noticed that there were many burnings but none of heretics; F. Rau, *Beiträge zur Kriminalrecht der freien Reichstadt Frankfurt-am-Main in Mittelalter bis 1532*, Diss. Potsdam (1916), 67, 75.

thinks that the net is not wide enough in this particular, and that I am only using a fishing-*rod*, not a net, that is, that I am picking up single examples rather than the mass which certainly existed, let me repeat that I only wish to establish a principle. To attempt more would be to rewrite the history of medieval criminal law.

The wide net was the most important of the principles on which the following research was based. But I also said my approach would be pedestrian. That can be called the stepping-stone principle. It says that only progress made step by step can yield a precision likely to reveal the character of each item. In this chapter I shall employ the stepping-stone principle in considering how bodies were treated. That means separating the main stages, and considering each one in turn, noticing regional differences where appropriate. The best way of conveying what can be meant by this procedure is to employ it, starting, as any medieval person who thought about the subject was likely to do, with the horrific fact itself: the body.

Urgency

Whatever was done with the body had to be done with speed. I promised as a leitmotiv of the present volume that suicide would appear as a maverick in both law and morals, and it already shows its character at this point. For if suicide is a crime at all, it is the only one in which the perpetrator begins at once to decompose after committing it, and this has an appropriate effect on legal procedure. The murderer of someone else could, if necessary, be kept locked up until his case was heard. The case of a self-murderer had to be heard at once: 'lest the body offend the nostrils of the living', as a worldly-wise pope once spelt it out (writing in 866).[20] Because speed is not a normal characteristic of legal procedures it is all the more noticeable in respect of suicide, and the need for it may indeed account for some features of customary practice in its regard, not excluding a certain conservatism: if you have to move fast to do *something* you may move correspondingly more slowly in respect of *what* you do. The tell-tale vestiges of this need are there in the record, as when sentence and burial are both recorded as happening on the one day.[21] Same-day burial of any dead body was a preferred rule in most well-governed communities, especially in southern Europe,[22] but it imposed a particular urgency in cases

[20] Nicholas I, *Responsa ad consulta Bulgarorum*, art. 98: 'ne viventium odoratui molestiam ingerat'. *Monumenta Germaniae Historica, Epistolae*, vol. 6, p. 598.4–5.

[21] e.g., A. Thierry, *Recueil des monuments* (as in n. 61 below), 283: [Abbeville, 1492]: 'laquelle sentence s'est faite . . . et icelluy corps pendu . . . le dit jour.'

[22] A geographical distinction made, in respect of Italian burial confraternities, by J. Henderson, *Piety and Charity in Late Medieval Florence* (Oxford, 1994), 159. The authoritative Guillaume Durand (†1299), bishop of Mende in southern France, defined a requirement of

of suicide. Letters of Remission from the Paris Court of Requests, for instance, when dealing with suicide, will end with a sharp order to the local officer to hand over the body to the petitioner.[23] On one occasion (in 1404), when there was almost literally a tug-of-war over a body, the latter was put in a barrel of caustic soda while its fate was decided.[24]

Legalism was here in open confrontation with hygiene. Instant burials of suicides sometimes got local officials into trouble, and hence into the records, higher up the hierarchy. Although their motive may sometimes have been subterfuge, it was more often just public health: they wanted the body buried.[25] Officious lawyers developed ways of meeting this problem, so that a body could be buried instantly and legal formalities settled at a more sedate tempo, complete with a facility for digging up bodies again if it proved they had been buried wrongly. Such digging-up of a suicide's body from a churchyard was not uncommon, with the result that the late thirteenth century gives ready-made formulae for arranging to have it done.[26] Meanwhile, if the worst came to the worst and a suicide's body was so putrid as to be immovable, pedantic lawyers could 'make' a body, in the form of a puppet, and 'punish' that, a form of legal play-acting for which a wider net than ours would bring us innumerable examples in fields quite other than suicide.[27] As for suicide itself, all these provisions

canon law that both decisions on burial and their execution should be made 'eadem die vel incontinenti' (*Speculum judiciale*, bk 4, partic. 3, para. 10 [edn of Basle, 1574, vol. 2, p. 402]), though in refrigerated Norway the Frostothingsbók (late 12th century), edited under the authority of an archbishop, allowed 5 days (§15; trans. L. M. Larson, *The Earliest Norwegian Laws*. Records of Civilization, Sources and Studies [New York, 1935], 232).

[23] Examples: Paris, Arch. Nat., JJ 130 (1386): 'et le corps de son dit feu mary lui face rendre & delivrer pour le faire enterrer par la maniere que dit est'; A. Longnon, *Paris sous la domination anglaise* (Paris, 1878), 111, 208, etc. In the miracle of St Amand, dated in 1107 and told in *The Violent against Themselves* (pp. 326–9), the officious archdeacon of Rouen said the putative suicide's body 'antequam illucesceret . . . in foveam projiceretur.'

[24] J. Boca, *La Justice criminelle de l'échevinage d'Abbeville au moyen âge, 1184–1516* (Lille, 1930), 82: 'tonnel de chaux'.

[25] J. F. Huguenin, ed., *Les Chroniques de la ville de Metz* (Metz, 1838), 471: 'ce jour propre . . . on le fist tireir hors'. Early twelfth-century Norwegian law exacted a fine for any body not buried after five days: *Gulathing Law*, ch. 23 [p. 511; see below, p. 571, n. 140].

[26] A formula for demanding the exhumation of an excommunicate, pagan, or suicide, and for the punishment of the parish priest responsible for burying him thus 'imprudenter', is given by Guillaume Durand, *Speculum judiciale* (as in n. 22), para. 8. Examples of exhumation will be found in the Register to *The Violent against Themselves*, pp. 445 and 464 in Northumberland, 1256, and Zürich, 1417.

[27] L. Tanon, *Histoire des Justices des anciennes églises et communautés monastiques de Paris* (Paris, 1883), 359 [text, from the register of Ste-Geneviève, 1288]; 37 [discussion]. The church authorities released to the secular arm the 'mannequin' of a suspected heretic who had killed himself in prison, in Nicholau Eymerich, *Le manuel des inquisiteurs*, translated into French with notes, etc., by L. Sala-Molins (Paris and The Hague, 1973), 198–200. Late authorities mention this practice as regular: Antonius Matthaeus [1601–54], *Tractatus de jure gladii*, ch. 37; (Leiden, 1689), 619: 'visum sepe aut cadaver affixum patibulo aut effigies defuncti' (this applies to the bodies of all condemned persons). A. Pertile, *Storia del diritto italiano*, vol. 5 (Turin, 1892), 505, quotes a similar use of effigies from the Piedmont constitutions of 1770.

would be put on a more regular basis in some post-medieval legislation when (to all appearances) laws got tighter, and disputes more frequent.[28]

The problem of speed entailed others, relating to particular methods of suicide. If someone had drowned or stabbed himself, it took time to decide if the case was indeed one of suicide. That made hanging a special case, for hanging usually suggested suicide *prima facie*. Not surprisingly, therefore, hanging is the first area where we find hints of considerations other than pure practicality. When someone was found unaccountably hanged, the urgent and immediate question was, who should cut the body down? This is the next stone to step on.

Release from the Noose

By the thirteenth or fourteenth centuries at latest, and in some places much earlier, there was a widespread rule that only a judicial officer could cut down the body of a hanged suicide. This normally applied to the removal of *any* dead body, suicide or other. Thus Jean Boutellier's *Somme rurale*, written near the end of the fourteenth century about French law, states it as a matter of course than no corpse, of a suicide or anyone else, 'should be moved without the seigneur's permission', the seigneur being there the holder of High Justice.[29] Many statements of French law said the same.[30] In both France and England, the records of actual suicide cases bear this out, where they mention the matter at all. In the French examples, it is always an official of the local High Justice who moves a suicide's body, for instance, in an abbey's criminal register, 'la gent St Martin',[31] or in royal records, a prévôt or his sergent,[32] or a seigneurial officer,[33] while in town jurisdictions a suicide will be 'levée par le maieur et eschevins'.[34] English judicial rolls, for their part, normally had no cause to mention who removed suicides' bodies, but when they do they confirm the rule in England too. For the abnormalities happen after someone has tried to conceal a suicide, as occurred in two cases in late thirteenth-century Eyre rolls, where the unauthorized disposers of a body are suspected (correctly) of having tried to conceal a suicide, and duly punished.[35]

[28] K. A. Geiger, 'Selbstmord im französischen Recht', 394–5 (expounding a Valois *ordonnance* of 1670, whose prescriptions for the purpose, besides exhumation and mannequins, include embalming).

[29] Edition of Paris, 1538, fol. 83^{v}.

[30] Cf. Garrisson, *Le suicide*, 116.

[31] *The Violent against Themselves*, 182.

[32] Ibid., 208, 223–5.

[33] Ibid., 225–7. Cf. 197–202 for a telling exception.

[34] A case at Abbeville in 1364, mentioned ibid., 183. The phrase is not quoted there but is taken here from the source.

[35] 1256 (Northumberland) and 1281/2 (Devon). *The Violent against Themselves*, 175–6.

Before suggesting why Germany may be different, let me add an obvious qualification. The rule only applied to *dead* bodies. If you found a would-be suicide who was not yet dead you naturally did all you could to release him. A London coroner's roll for 1321 confirms this (if it needed confirming) when it describes how a woman was found hanging by her maidservant, who got a male neighbour to cut the body down in an attempt to save the woman, with the coroner's subsequent approval.[36] The only oddity in the neighbour's heroic act is that it got into a legal record, because his efforts failed and the woman died. So the coroner had to come and write everything down. If the life had been saved there was only one way historians would have got to know about it: via a miracle story, since most miracle stories about suicide are about attempts which failed. That is why *miracula* follow the opposite principle from the legal records in this matter, in that it is *never* a legal officer who releases the suicide's body. Thus a mural formerly on the wall of Cortona cathedral showed St Margaret of Cortona, cutting the noose to save a suicidal professor;[37] and that is typical. In other stories, it is spouses, fellow religious, and neighbours, who act to cut or untie the rope.[38] Far from eroding the credit of the legal rule, the more ambitiously miraculous of these stories actually erode their own. For if the body had been properly dead—as it had to be for a fully miraculous resuscitation—then the other characters in the story might have hesitated to touch it. In my own dossier of suicide miracles, none of them ever does.[39]

Whatever benefit of doubt we allow these miracle-smiths, there is another doubt we have to tackle ourselves. It concerns Germany. There, the compulsory viewing of any corpse by a legal officer was haphazard in its arrival, confined chiefly to go-ahead towns.[40] But the rule appears to have been generally enforced in particular respect of suicide. A fifteenth-century German law treatise, Jodocus's *Practica*, states that a suicide's body can only be cut down by a sergeant, constable, or *Büttel*; a provision whose special application to suicide was sufficiently clear to inspire a commentator in Milan—where police had long been told to inspect *all* corpses—to add 'this is not observed among us.'[41] The customary of Neumünster in Schleswig-Holstein (see Map

[36] Ibid., 169. [37] Ibid., 334–5 and Plate 6.

[38] Ibid., 246, 248–9, 256, 324, 328, 334–5, 337.

[39] The most assuredly 'dead' of the *miraculés* mentioned in the last note was Giacomuccio (246), but the women from Lisieux (328) and Genoa (248–9) run him close.

[40] *The Violent against Themselves*, 231; J. Dieselhorst, 'Die Bestrafung der Selbstmörder im Territorium der Stadt Nürnberg', *Mitteilungen des Vereins für Geschichte der Stadt Nürnberg*, 44 (1953), 80.

[41] Clarus, *Liber quintus*, 'Homicida', quaest. 37 [edn of Frankfurt, 1612, p. 243]: '*Practica* Jodoci, lib.88 . . . dicit quod secundum consuetudinem quisquis seipsum interfecit, ex quacumque occasione et causa . . . dicit etiam *ibid. numer. 8* quod ex more et consuetudine cautum est, quod nemo huiusmodi corpus damnatum et suspensum manibus attrectet et auferet, nisi ex iudicis mandato et permissu. . . . quae tamen omnia apud nos non servantur.'

1), which its students generally agree records tradition much older than the time it was written (in the second half of the sixteenth century), likewise gives the task of cutting down hanged suicides exclusively to the *Büttel* (an officer whose duties included that of gaoler). Among actual suicide cases recorded in Germany the only pair I know to give details confirms the impression. A legal opinion referring to a suicide in Dreiss, near Echternach in Alsace, in 1429, says it was 'the commune', who removed a certain suicide's body.[42] For the year 1484, similarly, Glassberger's Basle chronicle says, of the alleged self-hanging by Andreas Zamonetič, that again, it was officers of the law who cut the body down.[43]

Let these slight indications serve as the basis for a hypothesis: that the rule that only a legal officer could remove a dead body began with suicides. If that is true, it suggests a taboo. From medieval conditions this is not easy to prove, but I said earlier we could only use post-medieval sources as an eye-opener. In this area there is an easy eye-opener in Hanns Baechtold-Stäubli's so-called 'concise' *Dictionary of Germanic Superstition* ('so-called' because a German 'concise' Dictionary can run to several big volumes and this one has ten, published between 1922 and 1942). This dictionary contains knowledge from many contributors about superstition in the Germanic world, a broad concept, especially then. The aim of Baechtold-Stäubli's work being comparative rather than historical, most of its material is undated and turns out to be mainly post-medieval. It can still open eyes.

The long entry under 'Suicide' is by the distinguished student of the subject contemporary with Baechtold-Stäubli, Paul Geiger (no relation of Karl August Geiger, who also wrote on suicide). Geiger mentions a belief widely documented after the sixteenth century, that only certain people could safely remove a suicide's body from the noose. Although the 'certain people' turn out to be mainly executioners, so that a sceptic might say this hardly belongs in a dictionary of superstition, that does not dispose of a case for superstitious beliefs, since executioners were a focus for them. Furthermore, we have *medieval* evidence for this last fact: in some places, at least, we know that executioners alone were allowed to touch some objects and could on no account touch others, like foodstuffs in a market, or a high nobleman's hand, perhaps even (in the latter case) on pain of death.[44] A suicide's noose may have been

[42] *The Violent against Themselves*, 233. I understand the expression in the source, *dye gemein*, to mean the community authority, not the community. [43] Ibid., 78.

[44] Ström, *Sacral Origins*, 262–76; W. Danckert, *Unehrliche Leute* (Bern and Munich, 1963), 23–49; F. Irsigler and A. Lassotta, *Bettler und Gaukler, Dirnen und Henker* [based on law and custom in Cologne, 1300–1600] (Munich, 1989), 228–39. Examples from Catalonia are gathered by J. N. Hillgarth, *The Spanish Kingdoms, 1250–1516*, vol. 1 (Oxford, 1976), 77. The nobleman's hand: J. Huizinga, *The Autumn of the Middle Ages*, trans. R. J. Payton and U. Mammitzsch (Chicago, 1996), 50.

Map 1 The Empire and contiguous areas, to indicate the origins of law books quoted in the text

among objects only the hangman could touch. For another piece of post-medieval folklore was that such a noose had magical power and could, for instance, heal disease or bring prosperity.[45] Although medieval testimony survives only for a similar belief about nooses of hanged people in general, not of suicides *qua* suicides, the latters' nooses would be automatically included.[46] That happened with the English *deodand*—the *deodand* being the instrument of any felony and originally 'forfeit to God'—which features often in Eyre rolls in respect of suicides' nooses. Like the knives of murderers, suicides' nooses are forfeited 'to God' (meaning, by the thirteenth century, in hard, non-superstitious practice, the king).[47]

The hypothesis of a taboo is strengthened by two more considerations. One is an episode from near Donaueschingen in Bavaria.[48] A peasant had been found hanging in a forest. The local villagers had come out and gathered round the body, but no one dared cut him down. After a long delay and a stubborn refusal by all present to climb to the branch and cut the body down, a young girl had been forced to do so. This was interpreted by her family as so serious an imposition that they subsequently declared private war on the village for forcing the girl to do so. Taken as the local chronicler tells it, this episode does suggest an unexplained dread of touching a suicide's body, even with an entire community present and witnessing. A problem is that we have reason to think the chronicler is deceiving us, and perhaps himself, about the nature of this incident, and that the girl's real danger lay not in anything supernatural or to do with suicide, but in her having presumed to interfere in what was in reality the death sentence of a much-feared fifteenth-century secret court, the Westphalian *Vemgericht*. Superstition about suicide could, of course, still be read into the passage, but only indirectly. For even a chronicler's deceits—supposing this to have been one—are historical evidence, since he expected his reader to believe that an entire village might, with no explanation given, have stubbornly hesitated to cut down a corpse the chronicler firmly identifies as that of a suicide.

A second consideration is that taboo can coexist with pragmatism, so there can be compromise. The courts who used nooses for killing criminals, after all, did so with a practical, material purpose, yet that did not stop other people from treating nooses with superstitious awe, an awe which gave wordless acknowledgement both to the power of law and to a terror of the crimes it

[45] Baechtold-Stäubli, *Handwörterbuch*, vol. 7, col. 1633 at n. 72; and vol. 8, col. 544; Ström, *Sacral Origins*, 257; W. Gregor, *Notes on the Folk-Lore of the North-East of Scotland* (London, 1881), 213.

[46] A. E. Schönbach, 'Studien in der Erzählungsliteratur Caesarius von Heisterbach', *Sitzungsberichte der kön.-kais. Akad. der Wissenschaften in Wien*, Phil.-hist. Kl., 142 (1900), 148–9.

[47] *The Violent against Themselves*, 152. [48] Ibid., 104–6.

punished. It supported the law rather as those 'police' miracles did, in times when courts were weak, and saints had to perform posthumous miracles to punish (say) trespassers on an abbey's property.[49] There is no reason why awe of a self-hanged man should not have had a similar effect, barring anyone but an executioner or a similar officer, his hands already scarlet with human blood, from touching the suicide's corpse. There is no need to think superstition and hard-headed practicality cannot sometimes travel part of the way together.

Extraction

Superstition (however we define it) comes more into its own when we turn to the question of how a suicide's body was removed from a building. For this removal was in some places subject to a ritual which, of all those related to the suicide's body, is least accessible to a purely practical explanation. Once or twice we hear that it is a judicial officer who must conduct it, but this requirement may again have been flexible.[50] In general, the ritual appears to have thriven among householders and the general community, and no evidence survives, in all our dossier of cases, of any dispute in its regard. It is as if everyone took it for granted that this was the right thing to do.

What was the ritual? Essentially, it required that the suicide's body be removed otherwise than over the main threshold of the house. The alternative usually stipulated was that it should come out through a passage dug under the threshold, but it could also be through a window or a hole made in the wall. The mid-fourteenth-century Goslar statutes give the prescription thus: 'when someone kills himself he shall not be taken out through the main door but shall be taken out under the threshold or through the window.'[51] The customs of Rügen, recorded between 1525 and 1531, describe as an old procedure that: 'if a man hang himself in a room he is cut loose and dug out under the threshold or under the wall.'[52] The Neumünster customs, mentioned earlier,

[49] B. de Gaiffier, 'Les revendications de biens dans quelques documents hagiographiques du xi^e^ siècle', *Analecta Bollandiana*, 50 (1932), 123–38.

[50] Dreyer, *Sammlung*, vol. 2, p. 1097: 'der Koerper aber wird durch den Buetel unter der Schwellen aus dem Hause gebracht . . .' Cologne sources in this connection normally omit mention of the hangman after the middle of the 14th century even where he is known to have been active; Irigler and Lassotta, *Bettler und Gaukler*, 230.

[51] The text is quoted by J. Grimm, *Deutsche Rechtsalterthümer*, 4th edn (Leipzig, 1899), vol. 2, p. 326: 'de ok sek sulven dodet, dene schal man to der rechten doren nicht utbringen, mer under deme sülle schall me one utbringen, eder ut dem venstere'; cf. O. Bernstein, *Die Bestrafung des Selbstmords und ihr Ende* (Breslau, 1907), 4.

[52] T. H. Gadebusch, ed., *Wendisch-Rügianischer Landgebrauch* (1777), tit. 247, §7, pp. 320–2: '[Von den, de sick suelvest mothwilligen thom Dode umbbringen und umbgebracht edder versuemet hebben]: . . . Henget sick einer sulvest binnen Timmers men houwet en loss

specify 'under the threshold',[53] while those of Dithmarschen, further east and first recorded in 1567, also say that the body of anyone who kills himself through 'malice [*mismode*]' shall be drawn out 'under the threshold'.[54] Sixteenth-century jurists in Flanders and Holland report similar practices, as if they were old. The suicide was taken out other than through the door as 'unworthy to be dragged across the threshhold' or (this in Utrecht, in Mattheus's commentary of 1548) 'unworthy to be taken through the door or entry to the house, through which he went in'.[55] Another late but significant witness, a diarist writing in Lille over nearly four decades after 1657 (who mentions several suicides in the town) depicts the threshold ritual as so ingrained that it is practised *three times* when the suspected suicide's body has been removed from the house for judicial 'trial' and returned when condemned, to be removed again and dragged to the offal heap, each time going through a hole under the threshold; as if a new, officious formality had been superimposed on an age-old custom.[56]

Further south, and back again with direct medieval testimony, we hear actual reports of individual cases with the ritual treated as routine, in Frankfurt in the 1440s,[57] in the Metz town chronicle in 1484, and in the Echternach miracle book.[58] Meanwhile Geiler von Kaysersperg, a famous preacher whose career was passed between Strasbourg and the southern Bavarian and Swiss towns, refers in a work published in 1505, as if he were talking about something well known, to the 'public dishonour' done to suicides' bodies, including, among instances of it, their extraction from the house under the threshold.[59]

und grefft en *in terrorem aliorum* under dem Suelle edder under der Wandt uth . . .' A modern German translation of these provisions is given in W. Ebel, *Curiosa iuris germanici* (Göttingen, 1968), 65–6, based on the edition by G. Frommhold, 'Das rügische Landesrecht des Matthaeus Normann nach der Kürz. Handschriften', *Quellen zur pommerschen Geschichte*, Hrsg. v. der Gesellschaft für pommerische Gesch. und Alterthumskunde, III, 4 (Stettin, 1896), where the clause is given as cap. 127 §§5–8.

[53] Dreyer (see n. 50 above).

[54] Quoted by Grimm, *Deutsche Rechtsalterthümer*, p. 326: 'Wo einer, de nicht pienlik beklaget were, ut mismode sik sulven umme brochte, de dode liechnam schall dorch den bödel efte racker under den süllen ut dem huse gebracht und int feld begraven werden.'

[55] Cannaert, *Bydragen* (see n. 17) 281; M. J. Noordewier, *Nederduitsche Regtsoudheden* (Utrecht, 1853), 31.

[56] A. Lottin, *Vie et mentalité d'un Lillois sous Louis XIV* (Lille, 1968), 280–2, quoting the *Chronique mémoriale* of Pierre Ignace Chavatte, written 1657–93. Further late examples, with variants like the throwing of the corpse from the roof of the house, are mentioned by K. A. Geiger, 'Die Selbstmord im deutschen Recht', *Archiv für Katholisches Kirchenrecht*, 65 (1891), 3–36, on pp. 5 and 11–12.

[57] F. Rau, *Frankfurt*, 75, 93.

[58] Huguenin, *Chroniques de la Ville de Metz* (see n. 25), 471: 'on le fist tireir hors, par dessubz le pas de sa maison . . .' Echternach: see *The Violent against Themselves*, 233–4.

[59] Geiler von Kaysersperg, *Navicula sive Speculum fatuorum, turba* 98, Sermon 31, para. 4: 'tales per justitiam publicam dehonestantur; quia sub limine extrabuntur a domibus . . .' (edition of Strasbourg, 1511, unfoliated).

All examples quoted so far, it may be noticed, have been from German-speaking areas. That reflects the evidence as a whole but for three exceptions. It would have been neat and tidy if all instances had been in Germany, so the exceptions call for Jacques Le Goff's famous principle, 'Recherchez l'anomalie!' A glance at Map 2 will show where these exceptions are: one is in Beaumont-en-Argonne in Lorraine, a second (late) in Lille, a third at Abbeville on the Somme, all, that is, on the French side of the modern linguistic frontier.[60] Let us concentrate on the most anomalous of the trio, Abbeville, which lies nearly a hundred miles west of the frontier. And first let us double-check the anomaly to be explained. The evidence for it comes in the report of a suicide's 'execution', in 1492, in the Abbeville Red Book—the municipality's own name for its criminal register. The report says the body, found hanged in the man's own home, 'was taken down by the executioner, pulled under the threshold of the door of the house, put on a hurdle and dragged to the town gallows, where it was hanged.'[61] The evidence, then, is sound; so how do we explain it?

Two alternative explanations can be offered. The Abbeville custom may, in principle, have been recent. The entry of 1492 is the first in the Red Book to mention this ritual in respect of a suicide, yet for the previous two centuries the Red Book contains other suicides, with no mention of the ritual. The 1492 entry may thus mark the deliberate adoption of a Germanic custom, to sharpen the sanctions for suicide in obedience to a wider trend which, I shall argue in a moment, probably marked the years around and after 1500. On the other hand, most Red Book entries are relatively brief, so perhaps there is no reason they should have mentioned the ritual, even if it obtained. That draws in the second explanation: that the Abbeville ritual was not recent but archaic, a relic of the migration period, when the Franks of France and the Franks of Frankfurt am Main were more or less the same people. On this hypothesis, the custom might have been carried even further west by Frankish settlers but, there, on ex-Roman soil, it had long been eroded by Roman ecclesiastical influence, stronger in the main territories of Gaul-Francia than in Germany. Faint encouragement for that hypothesis can be read in the wording of the royal officer's letter that precedes the 'execution' at Abbeville. The letter is dated the day before the execution, and the seneschal's lieutenant, having

[60] I include in this negative generalization 'post-dated' testimony, like that from Lille. J. Delumeau, *La peur en Occident* (*xiv*^{e}–*xviii*^{e} *siècles*) (Paris, 1978), 115–18, includes the Lille example but none to the west of Lille.

[61] A. Thierry, ed., *Recueil des monuments inédits de l'histoire du Tiers État*, 1re série: *Chartes, Coutumes, etc: Région du Nord* [= Collection de Documents Inédits sur l'Histoire de France. 1re série: Histoire Politique], vol. 4 (Paris, 1870) 283: [28 April 1492]: 'que le corps d'icelluy Raoullet [Gringoire] seroit et a esté par le bourrel despendu et mis sus, tire pas dessoubz le soeul de l'huis du dit hostel, mis sur une cloye et le trainsnié jusqu'à la justice de la ville, et illecq le dit corps estre mis à une fourche.' [= Abbeville, Bibl. municipale, MS 115 (Livre rouge), fol. 125$7^{v}$].

taken possession of the dead man's effects, tells the échevins they can have the body 'to do justice and execution on it such as they shall find fitting'.[62] It is as if the lieutenant, a sophisticated Pontius Pilate educated further west, is aware of a custom foreign to France as a whole, and does not wish to interfere.

The drift of this argument can be made clearer by means of Map 2, showing the distribution of known examples of the threshold ritual. The eastern boundary of this distribution map probably only reflects the availability of documents, progressively rarer as we go east. To the south—if Geiler von Kaysersperg is allowed to speak for the whole of Swabia and Bavaria—the southern limit is the Alps. That Milanese jurist, we recall, specifically put the ritual extraction of suicides' corpses among customs 'quae apud nos non servantur'.[63]

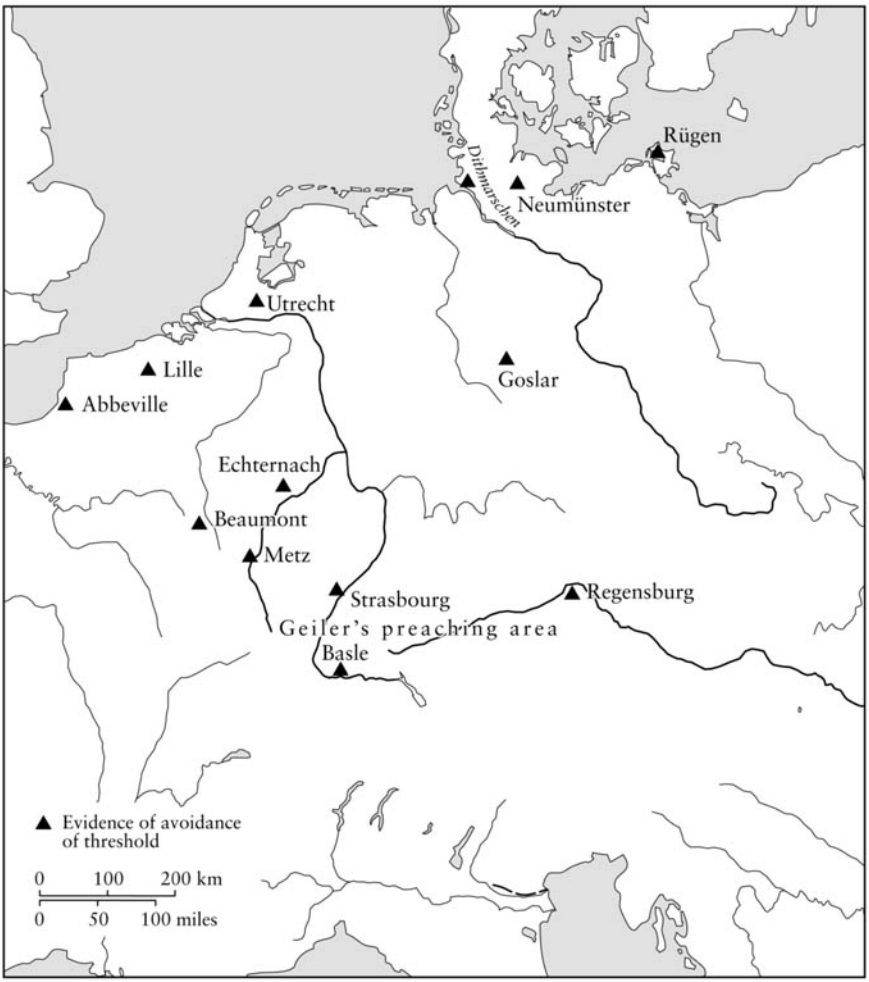
The western boundary raises a finer question. Historians of language agree that the modern linguistic frontier, just to the north and east of Abbeville and Beaumont, was established *c.*1000. Earlier linguistic and cultural frontiers are still disputed, but the Somme has its claims. For instance, we discover from Werner König's lucid little *Atlas of the German Language* (first published in 1978) that the Somme formed the western frontier of the place-name *Plouy/Ploeg* (meaning 'plough-community'), otherwise frequent from there eastwards to Schleswig-Holstein, and that it did almost the same for the Anglian place-name ending *-ingas*. Only slightly less clear is a change in the density of certain hybrid, Germanic-Roman place-names, again suggesting the Somme as an early frontier, say in the late fifth or sixth centuries.[64] In sum, the presence of the threshold ritual at Abbeville, Beaumont, and Lille suggests, in its context, that if it was not a recent introduction for the reason I mentioned, the ritual was old Germanic, at least as old as the migrations.

What the rationale of the ritual was we must surmise from late sources and by deduction from folklore in general. The same threshold ritual was

[62] The lieutenant of the royal Seneschal for Ponthieu, Thierry de Lisgnes, wrote on 27 April 1492, assigning the body to the échevins 'pour par eux faire justice et exécution telle qu'ilz trouveront que faire se devra, sauf la confiscation des biens d'icellui deffunct, lesquelz . . .' Amiens, Archives départmentales de la Somme, MS coté F 404, no. 13. I owe the transcription of this document and further information about this, and the Livre Rouge, to Dr Isabelle Neuschwander, Director of the Archive. On the eagerness of royal officers in 14th-century Abbeville to change the law in matters central to royal interests (unlike burial), see below, pp. 58–9.

[63] Clarus, *Liber quintus*, as above: 'item *numer. 9* dicit pariter consuetudine observatum esse, ut quoties hoc scelus in domo commissum est, cadaver ipsum funibus a domo ipsa extrahatur, non per ostium, sed per foramen factum sub limine domus: quae tamen omnia apud nos non servantur.'

[64] T. Frings, *Grundlegung einer Geschichte der deutschen Sprache* (Halle, 1957), 24–5 and Karte 31; cf. W. König, *Atlas zur deutschen Sprache*, 6th edn (Munich, 1985), 58. Frings's relatively simple identification of the 'Franks' should be read in the light of R. Wenskus, *Stammesbildung und Verfassung. Das Werden der frühmittelalterlichen Gentes* (Cologne and Graz, 1961), 512–41.



Map 2 France and Germany, showing the geographical extent of the threshold ritual

generally used, in the same areas, to extract the corpses of burglars, heretics and rapists, dead within a house.[65] Baechtold-Stäubli's *Dictionary* provides numerous examples of the ritual for suicide from the post-medieval period, all from the Germanic world and northwards, notably from Norway and Scotland. But the custom could well have stretched further east. A student of burial-practices in twentieth-century India finds a similar ritual among Brahmins near Madras, associated with untimely deaths of certain kinds, though not expressly with suicide.[66] There, the extraction is through the wall of the house, a variant also found—together with extraction through the roof or a window—among Baechtold-Stäubli's and Paul Geiger's examples from early modern Germany.

A rationale for the threshold ritual is not easy to document. The sixteenth-century Dutch and Flemish jurists just quoted said the suicide's body was 'not worthy' to pass over the threshold, and other post-medieval sources shared that view,[67] which would tally with the idea that a threshold was in some way sacred.[68] Whether or not consistently with that, it might also have been believed that the threshold ritual stopped a suicide's ghost from returning to the house.[69] But again no medieval evidence says so and, as a later chapter will explain, suicides are remarkable for their absence from documented pre-Reformation ghosts.[70] These silences do not disprove either theory about the threshold ritual, but they do remind us that, in either case, we may be listening to lawyers' or folklorists' rationalizations, made long after the time the rituals took root.

Transport

France

Whether or not the suicide's corpse had been ritually extracted, it was now ready to move to the next place on its journey. Its transport in some areas was

[65] Grimm, *Deutsche Rechtsalterthümer*, 4th edn, vol. 2, pp. 325–6.

[66] G. Evison, 'Indian Death Rituals. The Enactment of Ambivalence', D.Phil. thesis. (Oxford, 1989), 168. In this case the Brahmins may abandon the whole house for 3–6 months, or at least seal up the room where the death happened.

[67] Baechtold-Stäubli, *Handwörterbuch*, vol. 7, col. 1630, §4 at n. 35. For instance, Damhoudere, *Pract. Crim*, cap. 88, regards the suicide as 'niet waerliche van over den dorpel gesleept te syn' quoted by Cannaert, *Bydragen*, 281. Mattheus, *De iure gladii* [1548], similarly sees the suicide as 'niet werdich is gebracht te worden door den deur en de ingang van dat huis, darr hy inne gegaan is'; quoted by M. J. Noordewier, *Nederduitsche Regtsoudheden* (Utrecht, 1853), 321. An observation of the custom in nineteenth-century Scotland, J. G. Campbell, *Superstitions of the Highlands* (Glasgow, 1900), 242, describes the hole as being made between the wall and the thatch.

[68] Baechtold-Stäubli, *Handwörterbuch*, vol. 7, cols. 1510–1543 ['Schwelle', by Gustav Jungbauer].

[69] As Dieselhorst, (see n. 40), 62 (using post-medieval examples).

[70] See p. 472 below.

subject to a custom known from a wider area of Europe than the previous one. The body was dragged. The evidence commonly implies that the dragging was done by a horse, and that was sometimes spelt out.[71] If the practice is examined region by region, we find among the earliest statute references one in the Lille ordinance on homicide dating from around 1300, which includes in the suicide's punishment that 'on le doit trainer'.[72] The same provision appears in the Abbeville Red Book entry of 1492; in the thirteenth-century customary of Brittany; and in the Law of Beaumont-in-Argonne, codified in the fifteenth century but representing here a law known to have obtained in the thirteenth.[73] Meanwhile judicial records, from the Île de France and dating from the late thirteenth century onwards, often include that the suicide 'fut trayné'. It was chiefly to fulfil this demand for dragging that that 'puppet' we met earlier was made, as a substitute for a body too long dead to treat thus, in a French abbey record of 1283.[74] In the extreme north of France, near Dunkirk, a law-book spells out that the suicide's corpse be dragged 'by the neck'.[75] From southern France, meanwhile, a preacher commenting *c.*1320 on Aristotle's allusion to the punishment of suicides' bodies among Greek city states, gives his illustrative examples in the present tense: 'sometimes [the City] *has* [my emphasis] the body dragged.'[76] The Breton customary gives an idea of the variety of other offences which earned a dragging, as well as suicide: treason, murder, highway robbery, arson, and rape.[77] But these offenders were dragged *alive*—a small difference.

Italy

The preacher I have just quoted had spent some of his career in southern Italy, and although the fullest records of dragging survive from France, the practice cannot have been confined there. In Italy, where urban law sought to neutralize suicide, we have little hard evidence of any maltreatment of suicides'

[71] As in Strasbourg [1487]: Kühnel, 'Er erstach sich selber', 475; Frankfurt [1441]: Rau, *Frankfurt*, 93.

[72] Roison, *Franchises . . . de Lille* (Lille and Paris, 1842), ch. 18 [p. 121]: 'Lois est en cheste ville que se home se pent ou noie ou ochist que on doit faire de lui justiche tout autre telle que s'il fust prouvés mourdreres d'autrui; chou est que on le doit trainer jusque as fourques et puis pendre.'

[73] Abbeville: Bourquelot, 'Recherches', pt 2, 264–5 (see p. 599 below). Brittany: M. Planiol, ed., *La très ancienne coutume de Bretagne*, §296; (Rennes, 1896), 278: 'Quar aussi advient-il [de] homme ou [de] femme, quant le deable se met en eulx et se occient à leur escient, et puis doivent ils estre panduz et trainez comme mutriers'. Beaumont: Bayet, *Le suicide* 441, quoting P. Defourny, *Beaumont-en-Argonne et la loi de Beaumont* (Rheims, 1863), 218ff. (a reference I have not been able to check).

[74] e.g. L. Tanon, *Histoire des justices* (see n. 27) 218: [1351] 'fu trainé et pendu et justicié, à Noisy, tout mort . . .'; 430: 'trayné sur une claye'.

[75] Garrisson, *Le Suicide*, 117, citing the Cassel *coutumes*, article 200.

[76] MS Paris, Bibl. Nat. 3290, fol. 17^{v}: 'aliquando [*scil.* communitas *vel* civitas] facit trahi vel mutilari seu non permittit tradi sepulturae'.

[77] Planiol, *Bretagne* 153.

bodies, but there are unspecific allusions which suggest it might have happened in some areas, perhaps rural or in other respects conservative. Thus Thomas Aquinas's lectures on the *Nicomachean Ethics*, written *c.*1271 after the end of a ten-year stay in Italy, contain such an allusion: referring to Aristotle's mention of the 'dishonour and contempt' [*inhonoratio sive vituperium*] accorded by the ancient Greek *civitas* to a suicide's body, Aquinas adds, using the present tense and without geographical qualification, 'for instance, the *city has* the body of the dead man dragged and leaves him unburied.'[78] Aquinas says nothing of this in an equivalent passage in the *Summa theologiae* (whose relevant part also dates from 1271), which merely says suicides 'are punished according to civic laws in that they used in antiquity [*sic*] to be deprived of the honour of burial'.[79] But the force of the other passage, even if it were unable to stand on its own, is confirmed by a similar reference around 1300 in a treatise by the Florentine Dominican Remigio de' Girolami, who had been to Paris but had passed most of his life in Italy. Commenting on the same passage in Aristotle, Remigio says: 'for instance, when [the city] has [*sic*] the corpse dragged or orders its non-burial'.[80] Of medieval Italian jurists, meanwhile, while Cino of Pistoia (who died in 1336) mentions the punishment of certain suicides' corpses—he is the jurist I mentioned as leaving the question of mutilation to the discretion of judges—he stops short of any allusion to dragging. Those two late sixteenth-century jurists, Farinacius of Rome and Clarus of Milan, do allude more generally to a practice in some lower courts in respect of suicides, of 'raging against corpses [*saevitia contra cadavera*]', which could well have been old. But Clarus includes dragging among Germanic suicide customs which 'are not kept among us'; and in their own day judges in Rome and Milan did not, both jurists insist, practice any sort of *saevitia*, though some such 'raging' was admitted by custom in certain nearby jurisdictions. The fact that both jurists make the distinction in favour of their own cities is itself indicative: the civic mentality was against it.[81]

England

So was the English mentality. Here we can be quite certain of the boundary, since not only do we find no evidence of the dragging of suicides but we find

[78] B. 5, lect. 17, §1096; ed. A. M. Pirotta (Turin, 1934), 365. My emphasis.

[79] Pt 2/2, quaestio 59, art. 4, §2; ed. P. Caramello (Turin, 1952), 292.

[80] *De via paradisi*, 'Non occides', in MS Florence, Naz., CS, C.4.940, fol. 278va: 'quaedam inhonoratio adest se ipsum corrumpenti ut civitati iniurium facienti, id est ipse faciat iniuriam civitati. Puta quia facit [scil. civitas] trahi cadaver eius vel iubet quod non sepeliatur, vel aliquid huiusmodi.'

[81] Farinacius, *Praxis*, cit., bk 1, tit. 1, quaestio. 11, §80 (edn of Frankfurt, 1597, pp. 134–5); Clarus, *Liber quintus*, cit., quaestio. 51, §15 [(Frankfurt, 1613), 187]; and 68, §37 [p. 243]. Cf. C. Calisse, *A History of Italian Law*, trans. L. B. Rogister (London, 1928), 399.

proof that it did *not* happen. A Berkshire Eyre roll for 1261 tells of a thief caught in the act on an estate near Faringdon. The estate belonged to Beaulieu abbey, and the thief had killed himself when apprehended. The estate bailiff had the suicide's body 'drawn at a horse's tail from the [estate] prison to Faringdon gallows', and his reward was a fine of £3 6*s* 8*d*. The Eyre roll adds that the bailiff had acted 'by his own authority and without the coroner's viewing', and some doubt must linger whether the offence lay in the dragging or in the two other offences defined by this phrase, since *prima facie* all three appear to be part of the same offence. But that the copious records on suicide in English rolls mention this case of dragging, and no other, helps confirm that this bailiff was doing something unusual and that the king's justices disapproved. Why they did (and why the bailiff had dragged the body in the first place) are questions I shall return to.[82]

Another English story, from *The Miracles of St Frideswide* (written at the end of the twelfth century) confirms the absence of dragging, at least for an acknowledged infidel. An insolently anti-Christian young Jew had hanged himself, and the exultant miracle-writer tells how his corpse was laid on a cart 'as the Jewish custom is' to be taken to London for burial. The ride was rough and the body fell off and broke its neck. But that was clearly an accident that served him right. So we can conclude that it did not happen all the time, as it would if bodies had been dragged.[83]

Germany

On any map of dragging rituals, Germany, finally, is better represented. German lawyers occasionally prescribe it for a suicide's corpse, and those that do so add a corroborative detail absent from most French codes, prescribing *how* the body is to be dragged. In France, that Abbeville document said it should be 'sur une claye' (on a hurdle), and that this was done is spelt out by some, but not all, French judicial records.[84] In northern Germany, where corresponding judicial records are lacking, the Rügen customary of 1530 says 'a rope should be fastened to one foot [of the suicide's body], and fixed to a line with a clip [?], and [the body should be] dragged by a horse.'[85] A twelfth-century poem written in Regensburg imagines an unpopular suicide as being

[82] MS London, PRO, JUST/1/40.

[83] *Acta Sanctorum*, Oct. 8, 576F; cf. *The Violent against Themselves*, 315–16.

[84] Abbeville: Bourquelot, 'Recherches', pt 2, p. 264f. St Germain des Prés: Tanon, *Hist. de justices*, 430: [between cases dated 1331 and 1379]: a 'barbier' had hanged himself and 'fut trayné sur une claye, et pendu au gibet'.

[85] T. H. Gadebusch, ed., *Wendisch-Rügianischer Landgebrauch*, tit. 247, §7, p. 321: 'bindt dat Tow [= *Tau*, rope] an einem Sehlen [= *Seil*, line] mit einem Schwengell [=? *schwengel*: a lever, handle, or bell-clapper], und leth en mit einem Perde henschlepen.'

'transported out' by 'the people' and 'dragged by the feet' to a ditch.[86] Sixteenth-century German jurists, by contrast, refer to the dragging of a suicide's body on a cowhide, explaining or rationalizing this on grounds that the crime of suicide robs the perpetrator of the right to human transport.[87]

Hanging and Mutilation

The dragging of a suicide's body was at some times and places followed by its 'execution'. In France the verbs *faire exécution* or *exécuter* share with *justicier* (literally 'to do justice to') a euphemistic reference to an entire procedure including the dragging. In some French customaries the expression *perdre son corps* may likewise mean the whole process; so does the phrase, in Germany, to 'pay with one's neck' (literally, 'lose one's neck'). In Italy such procedures, where referred to at all, were what jurists meant by *saevire in cadavera*.[88]

In such areas the rough journey ended at a place of execution. In France the body would be treated like that of any homicide. If male, that is, it would normally be hanged.[89] I find no evidence before the very end of the Middle Ages of the suicide's body's being hung upside-down, a fate sometimes reserved for other serious offenders (who might suffer it between two dogs, hanged for the purpose, as a symbolic analogue to the offender's character).[90] One possible exception may be the illumination in a manuscript of St Augustine's *City of God*, made in northern France in the late fifteenth century. It suggestively shows a person hanging upside-down as on illustration to Augustine's suicide chapters. That by itself scarcely shows this was current legal practice.[91]

[86] *Kaiserchronik*, lines 4291–2; ed. E. Schroder, *Mon. Germ. Hist., Deutsche Chroniken*, vol. 1, pt 1 (1895), p. 160: 'die liute wolten in ûz tragen, bi den fuozen zôh man in in den burcgraben'.

[87] P. Geiger, 'Die Behandlung der Selbstmörder im deutschen Brauch', *Schweizerisches Archiv für Volkskunde*, 26 (1925), 145–70; p. 157, basing his case on statements by sixteenth-century jurists.

[88] Clarus (see n. 7), quaestio 51, § 15 [p. 187]: 'non debet ullo modo saevire in eius cadaver . . .' Farinacius (see n. **8**), bk 1, tit. 1, quaestio 11, § 80 [p. 135]: 'caveat iudex in illorum cadavera saevire'.

[89] 'Normally': 'à prendre à une fourche, ou autrement, selon les circonstances du cas', according to the custom of the Châtellenie of Furme, in Garrisson, *Le suicide*, 116.

[90] Noordewier, *Nederduitsche Regtsoudheden* (see n. 67), 306, quoting a case of 1436 as 'a right and custom of the land': 'Een gat in de muyr te maeken . . . mit twee honden daer men tusschen hangen soude, en dan mitten voeten opwairts te hangen—na den rechten en gewoenten van den lande.' (Noordewier cites 'De Riemer, 2, 315'.) I cannot verify the date of the text on whose authority Garrisson (1885), p. 103, says suicides were hung upside-down in Bordeaux. K. A. Geiger, 'Selbstmord im französischen Recht' (1889), 390 n. 4, affects to document this practice in Bordeaux by reference to Bourquelot, pt 2, 264, but appears to have confused Bordeaux on this point with Brittany, on whose documentation see n. 92 below.

[91] Paris, Bibliothèque Nationale, MS. fr. 9186, fol. 298: *Compendium hystorial*. The illustration is reproduced in A. de Laborde, *Les manuscrits à peintures de la Cité de Dieu de saint Augustin* (Paris, 1909), vol. 3, plate 88.

A hint that it did *not* happen, on the contrary, can be read in the clear statement by a sixteenth-century jurist in Angers that 'today' suicides are hung head-down 'to add ignominy', as if the refinement had been recently introduced.[92]

In these areas of French law, women were treated differently, as in punishments for other homicide and indeed other crimes (in 1449, a Paris chronicler noted the hanging of a live criminal woman as a novelty; before then, women homicides were burned or buried alive).[93] For a suicide, burying would have advertised no message. Any corpse, good or bad, could be buried without disgrace. So in areas of French law 'execution' on the female body meant burning. The Lille town law of *c.*1300 states the distinction: the body of a suicide is to be treated like that of a murderer, that is, if male, dragged and hanged, if female, 'burned under the gallows'.[94] The customs of Anjou also prescribe burning for women.[95] Records of actual cases confirm this distinction, both in the abbey registers of the Île de France and in the north-east. The city accounts of Douai for 1398 include, for instance, a hangman's wage for having 'at the gallows [*à la justice*] burned Marie Blassielle, who had . . . hanged and strangled herself in her house'.[96] The jurist Jean Boutillier, at a date just before this, tells of a woman accused of theft who hanged herself in prison. The prévôt of Tournai did not know what to do with her and asked for instructions from the Council in Paris, which said the body should be burned 'and this was done'. That incident reveals, *en passant*, that the prévôt

[92] Pierre Ayrault (†1601), *De l'ordre, formalité et instruction judiciaire*: 'Aujourd'huy, pour y adjouter plus d'ignominie, ceux qui se sont desfaicts eux-mêmes, nous les faisons pendre la teste en bas'; quoted by J. Bregeault, 'Procès contre les cadavres dans l'ancien droit', *Nouvelle revue historique de droit français et étranger*, 3 (Paris, 1879), 619–44, on p. 624. Ayrault was a judge in Angers. Bayet, 442, seeks to make Brittany an exception but no text in Planiol, *La très ancienne coutume de Bretagne*, suggests that Breton law up to the early fourteenth century hanged suicides' bodies upside-down (see esp. 153, 278), and it is significant that it is only, to all appearances, a *sixteenth*-century version of Breton law which Bourquelot, pt 2, p. 264, quotes to the effect that the suicide 'doit estre pendu *par les pieds* et traisné comme meutrier'. The words I have put between asterisks are significantly absent from the fourteenth-century text [cf. Planiol, 278. 12–13], and only appear in a version studied by Bourquelot's source, D'Argentré, in the seventeenth century.

[93] Tanon, *Hist. des justices*, 33. This and related texts, including most of those in the following four notes, are reviewed and discussed by A. Porteau-Bitker, 'Criminalité et délinquance féminines dans le droit pénal des xiii^{e} et xiv^{e} siècles', *Revue historique de droit français et étranger*, 58 (1980), 13–56, esp. 51–3.

[94] Roison, *Franchises . . . de Lille*, §§18 and 19 [p. 121].

[95] 'Coustumes et stilles observerz et gardez ès pays d'Anjou et du Maine', §77; in M. C.-J. Beautemps-Beaupré, ed., *Coutumes et institutions de l'Anjou et du Maine antérieures au xvi^{e} siècle*, pt 1: *Coustumes et styles*, vol. 1 (Paris, 1877), 430: 'les déliquans de telx meffais, si c'est homme, il doibt estre trainé et pendu . . . si c'est femme, elle doit estre arse'. The Breton customs appear to make no distinction: M. Planiol, ed., *Coutume de Bretagne*, 278, has both man and woman 'panduz et trainez'.

[96] G. Espinas, *La vie urbaine de Douai au moyen âge* (Paris, 1913), vol. 1, pp. 751–2.

neither knew what to do nor had advisers on the matter nearer than the Council in Paris.[97]

While women were the main privileged category in respect of corporal punishment for suicide, lawyers occasionally had to debate others. Some jurisdictions thought nobles should never be hanged, dead or alive.[98] The relative rarity of suicide among the nobility may have excused that rule from one potential area of its application. Clergy were more of a problem. A late fourteenth-century French jurist had to insist that the body of a suicide cleric could *not* be hanged, on the argument that the Roman law principle that 'crime is extinguished by death' did not apply to clerical status. That is, a dead cleric was still a cleric and therefore could not be hanged. That, at least, was his argument, but he clearly needed to fight for it.[99]

Outside France the evidence on execution is less informative. In Germany the Goslar statutes from the middle of the fourteenth century say that, after ritual extraction from the house the suicide's body, of whatever sex, should be 'burned in the fields'.[100] In the south, in Frankfurt am Main and Nuremberg in the fifteenth century, burning appears from the criminal registers to have been one of two main methods of disposing of a suicide's corpse,[101] though this does not appear to have been the case in Regensburg.[102] Nuremberg practice in the fourteenth and fifteenth centuries suggests that the burning was either 'in the open fields or at a road junction'.[103] Of the hanging of a suicide's corpse, either way up, I have found almost no German evidence. At Breslau in the seventeenth century there would be a famous case of a male suicide's body

[97] Jean Boutillier, *Somme rurale* [1393–6], 'Destre suspeconne de tel case' [(Paris, 1538), fol. 84[rv]]: 'Et ainsi fut il conseille aux prevost et iurez de tournay pour une femme qui en leur prison estoit pour larrecin laquelle se pendit par desespoir. Si fut conseille que puis quelle avoit fait homicide de son corps quelle devoit estre arse: et ainsi fut fait par le conseil de Paris.'

[98] Bartolus, *In Digestum*, lib. 49, tit. 16, lex 3, in *Opera* (Lyons, 1504), vol. 3, pt 2, fol. 230[v]; L.-T. Maes, 'La peine de mort dans le droit criminel de Malines', *Revue historique de droit français et étranger*, 128 (1950), 389.

[99] M. Boulet, ed., *Quaestiones Johannis Galli* (Paris, 1944), § 210, p. 116. The debate about the hanging of suicide clergy was an old one, already aired, although aired indecisively in the thirteenth-century *Grand Coutumier de Normandie*; P. Viollet, 'Les coutumiers de Normandie', *Histoire littéraire de la France*, vol. 33 (Paris, 1906), 41–190; on p. 128.

[100] Grimm, *Deutsche Rechtsalterthümer* (see n. 51), 326: 'unde one uppe dem velde bernen'.

[101] *Nürnberger Stadtchronik*, ed. C. Hegel (Leipzig, 1872), 310 [4 March 1469]: 'eine küsterin . . . het sich villeicht vor laid erhangen. man verprennt sie'; p. 350 [1477]: 'da erhieng sich ain gensdiep . . . man verprent in'. Cf. Dieselhorst (see n. 40), 62. F. Rau, *Beiträge zum Kriminalrecht . . . Frankfurt am Main*, 75 (entries in municipal account-books): [1457] '2 sh. umb schaube als man den Doden verbrante'; [1458] '6 sh. von holcz czufuren den czu verbornen der sich gehangen hatte'; [1482] '1 sh. umb strowe als man denselben manne verbrante'; [1458]: 'den der sich gehangen hait herabe uff daz bruch da man schyndet zu sleuffen und burnen lassen'.

[102] H. Knapp, *Alt-Regensburgs Gerichtsverfassung* (Berlin, 1914), 219: (on suicides, customarily thrown into the Danube) 'von einer schimpflichen Verbrennung ist nirgends die Rede'.

[103] H. Knapp, *Das alte Nürnberger Kriminalrecht* (Berlin, 1896), 99; Dieselhorst (see n. 40), 62 and n. 29.

ending on the gallows, mutilated, after the town's life had been brought to a standstill by haunting;[104] but that is a very late example from a cultural climate we have no reason to think medieval, and although the practice of hanging on its own may conceivably have been old, there are grounds for thinking that of mutilation may have been post-medieval.

In England, beyond that exceptional case at Faringdon in 1261, there is no evidence between the thirteenth and fifteenth centuries for the hanging of the suicide's body; while as for Spain, a sixteenth-century jurist says custom—as distinct from the written codes prepared by civilian jurists like himself—has suicides' bodies hanged on the gallows, after being 'carried publicly round the streets'.[105] In Italy, practice was uneven. The jurist Alberic of Rosciate (*c.*1290–1360) agreed with his French colleagues writing at the turn of the fourteenth century, that judges who hanged the bodies of suicides 'erred', as if some did, while others—doubtless more influenced by learned law—did not.[106] Later, in the sixteenth century, practice was still patchy. The *saevitia in cadavera* referred to by Clarus and Farinacius combined both dragging and hanging, though none of this happened in enlightened cities like Rome or even, normally, in Milan—which, for all that, dragged some other kinds of criminal.[107]

There is post-medieval evidence for the deliberate mutilation of suicides'

[104] R. Kühnau, *Schlesische Sagen*, 4 vols. Schlesiens volkstümliche Überlieferungen, 3–6 (Leipzig and Berlin, 1910–13), vol. 3, pp. 209–13 [§1579]; put in contemporary context by Baechtold-Stäubli, vol. 7, col. 1632; see below, p. 473.

[105] Antonio Gomez, *Commentariorum . . . iuris civilis . . . tomi tres*, vol. 3, ch. 1 'De delictis', §79 (Antwerp, 1634), [p. 438]: 'Secundo infero, quod quando quis se occidit, imponitur poena cadaveri, quia corpus eius publico ducitur per vias publicas, et furca suspenditur, et ita vidi practicari in hac civitate Salmanticensi . . .' Cf. ch. 2 'De homicidio', §13 [p. 457]: 'Sextus casus, in quo aggravetur pena, est quando seipsum interfecerit, per cuius perfecta declaratione dico, quod de iure communi . . . non punitur cadaver aliqua pena sensitiva, vel afflictiva corporis, cum in eo non possit cadere, licet de consuetudine contrarium fiat, quia cadaver furca suspenditur, ut supra suo loco dixi.'

[106] Albericus a Rosato, *Commentarium de statutis*, part 3, quaestio 18, 'De confiscationibus', para. 5 [*Tractatus illustrium in utraque tum pontificii tum caesarei iuris facultate iurisconsultorum* [= *Tractatus tractatuum*], vol. 2 (Venice, 1584), fol. 57ra]: 'Et ideo errant iudices, qui bannitos vel criminosos mortuos suspendere faciunt, secundum Jacobum [= de Révigny] et Petrum [= de Belleperche]'. Although Alberic does not specify suicides here the passage occurs in their context. On Alberic: Coing, *Handbuch* 270 and 272.

[107] Milan: Clarus, *Liber quintus*, quaestio 51, §15 [(Frankfurt, 1613), p. 187]: 'sic etiam vidi alios, qui pendente processu seipsos interfecerant, furcis publice suspendi, et in specie quandam Ludovicum Bergaminum, qui post confessionem delictorum seipsum in carcere strangulaverat, 6 Nov 1555'. Clarus' other examples of posthumous hanging are, like this one, of persons bearing criminal charges unconnected with suicide. Rome: Prosper Farinacius, *Praxis . . . criminalis*, book 1, tit. 1, quaestio 11 §80 [(Frankfurt, 1597), p. 134]: 'vera et practicata est opinio assessorum facientium suspendere cadavera eorum, qui ex quavis causa se occidunt'. Both jurists have just quoted Gomez and, like Gomez, disapprove of the customs they describe. Farinacius goes on [p. 135] to show with five recent examples that in Rome it never happens to suicides as such.

bodies,[108] with mutilations of kinds so various as to suggest inventiveness, and balance of evidence suggests, as I say, that the practice may have been a late or post-medieval development. The Icelandic sagas, written mostly in the thirteenth century but carrying older tradition, tell of the mutilation of dangerous corpses, but do not relate this to suicides (not least because it was probably no offence in ancient Iceland).[109] A ninth-century scriptural commentary written at Stavelot, in the heartland of the Carolingian empire, suggests that mutilation was *not* practised within the author's knowledge: for the author, Christian of Stavelot, commenting on St Matthew's description of Judas' suicide, says suicide is so serious a sin that even *the ancients* [my emphasis], though pagans, punished it by cutting a hand from the corpse, as if the ninth-century commentator had no contemporary analogues to refer to.[110] At the end of the Middle Ages an Italian jurist, Bertachinus dei Firmani, wrote (in the early 1470s) as if the beheading of suicides' corpses was normal and legitimate, and reproved those of his predecessors who had, he said, left this matter to the decision of individual judges; but although Bertachinus may have been stating correctly the position in his own time, his historical references are sufficiently confused to throw doubt on whether this form of *saevitia* was regularly practised by earlier Italian judges.[111] That, or other kinds of mutilation, may have been in the mind of Pope John XXII in his sermon of the 1320s, which mentions mutilation, together with the dragging and non-burial of suicides' corpses, 'sometimes'.[112] But John's allusion, for all that it may have either his

[108] Baechtold-Stäubli, *Handwörterbuch*, vol. 7, col. 1630 [§4, at n. 33].

[109] E. Mogk, 'Altgermanische Spukgeshichten', *Neue Jahrbücher für das klassische Altertum*, 43 (1919), 103–17; pp. 109, 111–12. Ström, *Sacral Origins*, 194–7. Suicide no offence: see p. 565 below.

[110] *Expositio in Matthaeum evangelistam*, ch. 43, 'De divite tentante' [*Pat. lat.*, 106, 1416B]: '[homicidium] malum est in quolibet homine pessimum esse in seipso; et non solum apud Deum ejusque Christianos exsecrabile malum est sibi injicere manus, verum et apud antiquos paganos ita exosum, ut manus quae hoc perpetrasset communi sepultura cum corpore careret'. On the author: E. de Moreau, *Histoire de l'Église en Belgique*, vol. 1, 2nd edn (Brussels, 1945), 327–8.

[111] Bertachinus [Firmanis], *Repertorium* [post 1471], vol. 3, 'Occidere' [(Venice, 1590), fol. 460^{v}]: 'Occidens seipsum gladio, vel veneno, debet sic mortuus suspendi vel decapitari, prout si vivus esset dicta poena puniendus'. Nota in libro II, capitulo 'Qui testamenta facere possunt'. Sed ibi Cynus contra Baldum vero ibi dicit esse in arbitrio judicis. Sed idem Baldus tenet quod non, libro I, capitulo 'Ne ex delicto defuncti', in quinto columno ubi loquitur de eo, qui moritur naturaliter post condemnationem de morte. Sed nunc mirum, quia si is minori dignus est odio, quam qui se ipsum occidit'. On Bertachinus: Coing, 351–3. The only reference to the matter I find in Cinus, *Commentarium in Codicem IX*, rubric 22, 'Qui testamenta facere possunt', is in §3 [(Frankfurt, 1578), fol. 364ra]: 'unde iudices, qui mortuos suspendere faciunt, errare videntur, secundum Jacobum [de Révigny, 1296] et Petrum [de Belleperche, 1308]. But the dates alone of Cinus (1270–1336) and Baldus de' Ubaldis (1319/27–1400) would make Bertachinus' statement of their positions unlikely.

[112] MS Paris, Bibl. Nat., lat. 3290, fol.17^{vb}: 'civitas punit eum publicatione bonorum in inhonoratione corporis, quia aliquando illud facit trahi vel mutilari, seu non permittit tradi sepulture'. This remark is inspired by Aristotle, *Nicomachean Ethics*, bk 5, ch. 11, but the measures the pope envisages are sufficiently different from those mentioned by Aristotle to suggest a contemporary reference.

Languedocien or southern Italian experience behind it, remains the only specific, strictly medieval reference I have found to such practices. Perhaps the dragging produced mutilation enough without further refinements.

That remark of the ninth-century exegete, Christian of Stavelot, in the Commentary on St Matthew, is worth keeping in mind. He alludes to maltreatment of suicides' bodies as something belonging to the ancients. Writers in and after the thirteenth century, in similar connections, would use the *present* tense, as if the practices were contemporary. This difference adds significance to the efforts made by several scholars to find any reference to the dragging or hanging of a suicide previous to the thirteenth century, and their failure to find one. To that possible chronological contour can be added a more definite geographical one. The deliberate maltreatment of suicides' bodies is not recorded from England. I shall return to both facts in the next chapter when speculating on the origin of these customs.

The Barrel and the River

The custom

In southern and western parts of the German-speaking world in the late Middle Ages a custom is recorded by which a suicide's body was put in a barrel, and the barrel taken or dragged to the local fast-running river and thrown in. Plate **1**, from a chronicle in Lucerne, illustrates the procedure at a point just before the body is put in the barrel. The illustration dates from just after 1513, but accords with earlier records, the earliest of which to survive is in the urban law-code or *Stadtbuch* of the Swiss Baden (that is, not the Black Forest Baden that gives its name to a German province; see Map 3). The Baden *Stadtbuch* was compiled in 1384, and says this:

> If it happens . . . that someone in our town and our jurisdiction brings death on himself and this becomes known, the man or woman should be shut in a barrel and on each end of the barrel should be [fastened] a note [to say] what he has done; and he should be thrown in the river Limmat and allowed to float away.

Despite the 'should [*sol*]' the custom is described as existing practice. Since the Baden town law was expressly modelled on an earlier one made at the end of the thirteenth century in Winterthur some twenty miles away, the custom may have existed there and then, though fragments of the Winterthur law that survive say nothing of it.[113]

[113] F. E. Welti and W. Mere, *Die Stadtrechte von Baden und Brugg* (Arau, 1899), 46.15–20: 'Beschaech ŏch, da vor gott jemer sy und es lang wend, das jemen jn unser statt und unserm gericht jm selber den tod en taett und das kuntlich waere, den oder die sol man verschlachen jn ein vassz und an jetwedern boden ein brieff, was er getan hait, und sol man jn lassen uff die Lintmag und laussen riunnen, und sol sin gůt unser herschaft verfallen sin ăn gnad.' Origin of the

The nature of this procedure will become clearer with further examples. It will be noticed that the examples already given presuppose the arts of reading and writing and an urban organization effective enough to provide barrels. In a businesslike memorandum of 1497, the Strasbourg public hangman handed over his post to a successor, mentioned the barrel custom and emphasized its expense:

> If anyone puts himself to death, whether man or woman, young or old, the council shall pay five shillings and no more to drag [*ziehen*] the body out of the house, shut it in a barrel and get rid of it, and the council shall pay for the barrel if the person's property does not suffice.

In previous times the town had paid ten pennies for this procedure and still paid for the barrel as well.[114]

Some town laws say what should be put on the label. One in Regensburg has on it *Lass rynnen, lass rynnen* ('Let it float on, let it float on').[115] In Metz the label would say *bouttez à vault, lassez aller, c'est par justice*: 'Kick it downstream, let it go! Official.'[116] These messages are a useful reminder. Some scholars have been tempted to a supernatural or folkloric reading of the barrel custom, as if running water were chosen as an agent of moral purification or to take the suicide away so that he did not return as a ghost.[117] I have to say that the evidence does not suggest that to me. Suicides (as was argued in the Introduction) were waste, and because big rivers were municipal dumping-grounds with towns ranged one below the other on them, riverains were in the habit of fishing for treasure, and had to be warned.

Geography

References in chronicles and sermons, as in due course also in pictures, confirm that the barrel custom was practised rather than merely prescribed. They

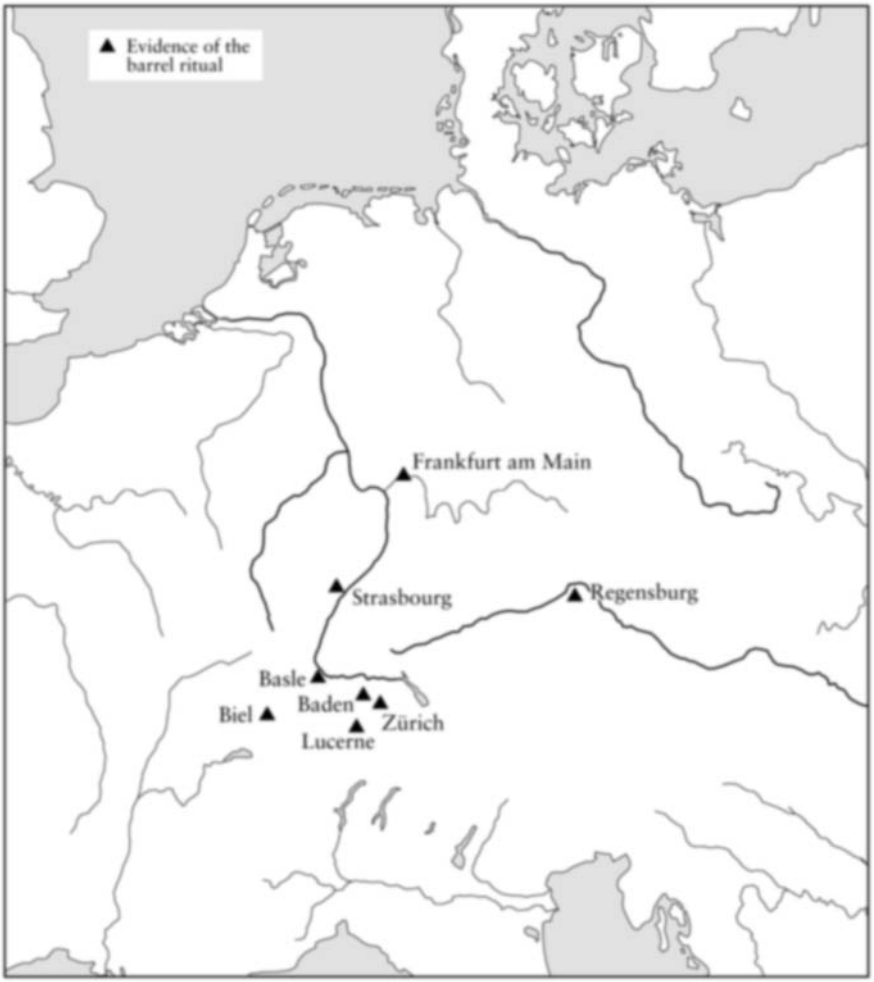
Baden law-book, ibid., pp. 27–9. cf. E. Osenbrüggen, *Studien zur deutschen und schweizerischen Rechtsgeschichte* (Schaffhausen, 1868), 337–45.

[114] J. Brucker, ed., *Strassburger Zunft- und Polizei-ordungen de 14ten und 15ten Jahrhunderts* (Strasbourg, 1889), 398: 'Item begebe sich ouch das im jemans selber den todt andete, es were man oder frowe, junge oder alt, wie das beschee, do sollent im min herren von einer solichen personen geben usz den hüsern zuo ziehen, in vasz zuo slahen und hinweg zuo schaffen 5 Bd. und nit me, und sollent min herren das vasz bezalen, wä anders ein solich perosne nit so vil guots hat oder verläst das semlichs von irem guot uszuorihten ist; man hat vor von einer personen geben 10 B. und die stat nit deste mynner das vasz bezalt.'

[115] Osenbrüggen, *Studien*, 340: 'und machet zetl an die pöden, daran stund geschriben: "lass rynnen, lass rynnen!" '

[116] Huguenin, *Chroniques . . . de Metz*, 472: 'bouttez à vault, laissez alleir, c'est par justice!' Cf. Osenbrüggen, *Studien*, 340; Bayet, *Le suicide et la morale*, 441; Schmitt, 'Le suicide', 12. Cf. Rau, *Frankfurt*, 66–7 and n. 232.

[117] Cf. P. Geiger, 'Die Behandlung der Selbstmörder im deutschen Brauch' (See n. 87), 155; Baechtold-Stäubli, *Handwörterbuch*, vol. 7, col. 1632, at n. 31; Schmitt, 'Le suicide', 112; Kühnel, 'Zum Selbstmord', 476.



Map 3 The geographical distribution of evidence for the barrel ritual

also confirm its concentration in a particular area. An exhumed Zürich priest of 1417 ended in a barrel in the same river—the Limmat—that flows down later through Baden.[118] At the other end of the same Swiss region, the Aarau, a similar case is mentioned from Biel in 1438.[119] Before the second half of the fifteenth century all surviving legal sources on the subject are from the same Swiss region. Even the later and more general allusion by Geiler von Kaysersperg, made *c.*1500, may confirm this concentration. Geiler says suicides' bodies are generally 'enclosed in vessels and committed to the waters'.[120] Geiler had been born (in 1445) only a few miles from Swiss Baden, and may have learned of the custom young before seeing more of it in a career passed between northern Switzerland and Strasbourg. West of Strasbourg, he would probably *not* have seen it. For the town chronicle of Metz, just west of Strasbourg, mentions in 1484 two suicides in succession, one in Metz and one in Strasbourg, but only for the latter does it mention the barrel ritual, as if the ritual happened on the Rhine but not the Mosel.[121] Map 3 marks the extent of known medieval evidence for the custom. As we shall see, it is documented as far north as Frankfurt and as far east as Regensburg, where the Main and Danube respectively offered the fast-flowing water required. The disposal of a body into the Rhine at Basle, in 1483, marks the south-eastern corner of known examples of the full ritual with the barrel, where (as it happens) the barrel broke, 'and vomited his corpse into the depths of the Rhine'.[122]

Chronology

The restricted geographical range of the barrel custom is matched in chronology. I have mentioned the earliest statute to allude to it, in 1384, possibly modelled on one from the late thirteenth century. From before then we have witness of the custom of throwing suicides' bodies into a fast-flowing river, but without any barrel. Forty years before the Baden statute, in 1340, an Avignon official committed suicide and his body was dragged round the town and 'exposed' near the Rhône, but not thrown into it.[123] At the beginning of the previous century, although Gervase of Tilbury (who had spent some years in Provence) told of a practice, still strong in his time, of navigating coffins down the Rhône, he says nothing of bodies being thrown *in*to it.[124] But from

[118] Osenbrüggen, *Studien*, 339. [119] Osenbrüggen, ibid.

[120] *Navicula . . . fatuorum, turba* 98, 31 §4 (edition of Strasbourg, 1513, unfoliated): 'quia sub limine extrabuntur a domibus, et aquis vasis inclusi committuntur'.

[121] Huguenin, *Chroniques . . . de Metz*, 472.

[122] Nicholas Glassberger, *Chronica*, in *Analecta Franciscana*, 2 (1887), 486.

[123] See *The Violent against Themselves*, 75–7, esp. n. 9.

[124] *Otia imperialia, Decisio* 3, ch. 90; ed. G. W. Leibniz, *Scriptores rerum Brunsvicarum*, vol. 1 (Hanover, 1707), 990–1.

still earlier, in the middle of the eleventh century, a legend survives from the same area in which a suicide's body is simply thrown into the Rhône, again without a barrel.[125] This is the earliest hint I know of the application of this disgrace, with or without the barrel, as applied specifically to suicide, though in the Rhône area it had apparently long been customary to throw the bodies of serious criminals into the Rhône, and sometimes to use a barrel. Thus three ninth-century sources tell how a woman sentenced for witchcraft is put alive into a wine barrel and thrown into the Sâone, but the purpose there was not just to disgrace her and get rid of the body, but actually to *drown* her.[126]

There the barrel was a prison. Its later use for suicides' corpses may have been a hygienic variant on an age-old custom of throwing disgraced corpses unenclosed into fast-flowing rivers. Once more, superstition may have cohabited with sheer practicality. The barrel variant, at all events, was only available to well-organized and wealthy towns, and their need to be wealthy explains the end of the barrel custom, which is easier to date than the beginning. In 1526 the law book of Tirol mentions burning as an alternative fate for suicides' corpses, together with their being thrown into moving water.[127] That of Nassau in 1616 mentions only burning.[128] The change was apparently typical, and by 1600 most Swiss towns had adopted burning, though the barrel custom lingered in Basle until the early eighteenth century.[129] A reason is given which confirms what was already hinted by the Strasbourg hangman: cost-cutting. The Swiss federal legislature in 1552 said as much, if only because of the hangman's wages when he had to free barrels which got stuck.[130]

Profane Burial

The foregoing are some of the things that might happen to the body which was 'denied burial'. But much the commonest, with or without the other

[125] F. J. Mone, *Anzeiger für Kunde der deutschen Vorzeit*, vol. 7 (Karlsruhe, 1838), col. 528 (on the body of Pilate after his suicide): 'Quapropter communicato Romanorum consilio a Tiberi resumptus fluvio quasi derisionis causa Vigennae commissus Rodano fluvio immergitur, quod Vigenna quasi via Gehennae nuncupatur. Locus enim dicebatur maledictionis. Homines praefatae civitatis aeris temperiem et malorum spirituum non sustinentes importunitatem, vas idem maledictionis a se removerunt et Losannae civitati cuidam sepeliendum commiserunt'. Date of the legend: H. Martin, 'The legend of Pontius Pilate', *Amsterdamer Beiträge zur älteren Germanistik*, 5 (1973), 95–118, on p. 102. Cf. pp. 342–3 below.

[126] Nithard, *History of the Sons of Louis the Pious*, bk 1, ch. 5; ed. P. Lauer (Paris, 1964), 21–2: 'Gerbergam more maleficorum in Ararim [= the Saône] mergi praecipit'. Thegan, *Vita Hludowici Imperatoris*, ch. 52; *Mon. Germ. Hist., Script.*, 2, 601.27–8, .30: 'iussit in vaso vinatico claudere, et proicere in flumen Ararim . . . Ibi eam diu affligens, quousque extinxit'. Astronomus, *Vita Hludowici imperatoris*, year 834 [*Mon. Germ. Hist.* ibid., 639.12–13] merely says 'tanquam venifica, aquis praefocata est'.

[127] Bernstein, *Bestrafing*, 14. [128] Ibid., 11.

[129] P. Geiger, 'Die Behandlung', 155. Baechtold-Stäubli (see n. 117) n. 31, gives a nineteenth-century example of the barrel custom. [130] Ibid., §4.

refinements, must have been just that: burial, albeit (as Pope Nicholas I explained to his missionaries)[131] burial without the usual ceremonies and away from the usual place. In the England of the Eyre-rolls we can find such burial called 'extra-ecclesiastical';[132] in the France of the registers, *prophana sepultura*.[133] More regularly, the reference is to a 'privation of burial' (or 'of the honour of burial').[134] It is perfectly possible, in some places and periods, that this is all that did happen to a suicide. Indeed, not even this happened invariably, either because the rules were bent or broken (as a later chapter will show), or because different configurations of legal assumptions affected different parts of the procedure, so that (although this is from the sixteenth century, when lawyers may have been becoming both more rigorous and hair-splitting on the subject) a body could be honourably buried even *after* extraction under the threshold *à la* suicide.[135] For simple, discreet 'non-burials', at all events, we can find western evidence as far back as 570, when a Frankish count fell on his sword after being disgraced, and was taken to a certain monastery 'and buried there', according to Gregory of Tours, who nevertheless adds that 'the corpse was not put among the Christian dead, and no Mass was sung for him.'[136] So we can imagine, with a burial of this kind, that a separate graveyard, or part of a graveyard, may have been reserved for such burials. In the absence of other indications—of a kind I shall come to in a moment—it is fair to assume this kind of discreet alternative was one possible norm when 'extra-ecclesiastical' burial is mentioned.

Historians of canon law have distinguished two elements in this kind of non-burial. One is the absence of religious ceremony, the other, that of a consecrated place. The two elements drew their emphasis from different quarters.[137] The denial of religious ceremonies was the aspect on which church authorities laid stress. Sound theology, after all, said this was the only part that could seriously matter. Besides, if it came to a dispute, religious ceremony was the only part of a burial over which church authorities had full control. Exclusion from consecrated ground, on the other hand, has generally been more of a concern for local communities, with or without church guidance. When we

[131] Nicholas I, *Responsa*, art. 98 [as in n. 20, lines 3–4]: 'sepeliendus est quidem'.

[132] MS London, PRO, JUST 2/191 m6d (The case of Johanna Papys of Cambridge, 1345): 'extra ecclesiastice sepelliatur'.

[133] e.g. Igneus, *Comment.*, fol. 99^{v}.

[134] e.g. in the texts quoted above from Christian of Stavelot (see n. 110); St Thomas Aquinas (see n. 79): 'privabantur antiquitus honore sepulturae'.

[135] K. A. Geiger, 'Selbstmord im deutschen Recht', 11–12.

[136] *Historiae*, bk 4, ch. 26 (39); ed. B. Krusch and W. Levison, *Mon. Germ. Hist., Scriptores Rerum Merovingicarum*, vol. 1, pt 1, p. 171.

[137] Esp. C. A. Kerin, *The Privation of Christian Burial: An Historical Synopsis and Commentary*. Catholic University of America. Canon Law Studies, No. 136 (Washington, DC, 1941), esp. 97–125.

look more closely at this distinction, we may wish also to see the polarity at work in the lists of people denied normal burial, since the lists are heterogeneous. At one end of the range would be persons guilty of palpably ecclesiastical offences, sometimes generally characterized as 'excommunicates' or, in an oft-quoted phrase of Pope Leo I, 'those to whom we would refuse communion when living'.[138] At the other end would be victims of strange deaths or mutilations. These last could include not only people killed by execution or suicide but even those who died in childbirth, or were mutilated in or after death.[139] The legal and psychological influences at work in the choice of these categories, and especially that of suicides, will be better appreciated if we proceed, again step by step, to discover just where suicides *were* finally buried.

Fields

Of expressions used in this regard, the commonest is 'in the field [or fields]'. In French the expression is 'aux chans', and is fairly frequent both in codes and in judicial registers. Thus the Beaumont-in-Argonne law-book, when describing the sort of execution that will frighten people from suicide, omits all mention of the gallows and just says 'the body should be dragged *to the fields*' as cruelly as possible, and so on.[140] In the abbey registers a case will sometimes end, after a hanging on the gallows, with a burial 'au chans'.[141] The expression is most regular of all in accounts of payment to those who did the burying. In his study of suicide in France, Bayet found the expression 'very often' in medieval financial accounts.[142]

That the open fields could be used also in Italy to bury criminals excluded from the churchyard is clear from the canonist Pietro de' Ubaldi (†1420), who adds 'and public roads'; though, perhaps characteristically for an Italian, he does not specifically mention suicides.[143] Nor have I found 'fields' expressly mentioned in this connection in England. In Germany they are mentioned often. In Caesarius of Heisterbach's story of a melancholy nun in a Rhineland convent (*c.*1200), a harsh prior who anticipated the nun's suicide threatened to bury her 'like a beast in a field' [*bestialiter in campo*].[144] The sixteenth-

[138] Quoted Kerin, *Privation*, 22. Cf. Gratian, *Decretum*, pt 2, Causa 24, quaestio 2, ch. 1; ed. A. Friedberg, *Corpus iuris canonici*, 1 (Leipzig, 1898), col. 984.

[139] Kerin, *Privation*, 57–8 (for lists of the excluded), and more generally, 30–58. For beliefs about the violently dead see index, under *biothanatos*.

[140] Quoted by Bayet, *Le suicide et la morale*, 441.

[141] e.g. Tanon, *Hist. des justices*, 400 [two cases of 1238 and 1266 in the Ste-Geneviève register].

[142] Bayet, *Le suicide et la morale*, 441, n. 1.

[143] *De canonica episcopali et parochiali*, ch. 14, §3; in *Tractatus tractatuum* (Venice, 1584), vol. 22, fol. 240^{v}: 'vel in campis, vel etiam in viis publicis'.

[144] *Dial. mir.*, dist. 4, ch. 40 [ed. Strange, p. 209].

century north German law-codes from Lübeck, Neumünster, and Dithmarschen prescribe the same—the suicide must be *int feld begraven werden*—while the more expansive Rügen code of 1530 says the suicide must be 'according to the character of the deed be buried in an unsown field'.[145] The same expression occurs in southern Germany in connection with burning, that is, in those areas where the 'barrel and river' method was not exclusive, as at Nuremberg. There, one way of disposing of the body of some types of malefactor, including suicides, was that it be burned in the open fields.[146]

Under the gallows

Like the Rügen law with its 'unsown field', some texts give hints of more specific local usage. For one thing, many suicides went no further than the gallows. Sardinian prescriptions say their bodies were left hanging on a gallows (*forca*) at the place of the suicide, and there left to the wind and the birds. A scholar familiar with Sardinian sources has thought this reflected practice in lands subject to Byzantium.[147] It was unlikely to apply to mainland Italy, where the leaving of any bodies on gibbets was seen as a shocking custom, only to be seen by visitors in the kingdom of France.[148]

It was easy enough, anyway, and disgraceful enough, to take the body down and bury it in the burial-place for executed criminals *sub furco* (under the gallows).[149] Since gallows were normally just out of town there would be undeveloped space for this purpose and we occasionally hear more about the land. In Paris, to judge from a case mentioned by the jurist Jean le Coq in 1399, suicides were buried in a piece of land otherwise used for tournaments or for the

[145] Thus *Neumünster Kirchspiels-Gebräuche*, art. 56 [ed. J. C. H. Dreyer, *Sammlung* (1756), 1097]: 'ins feld begraben'; and for the same expression in case-law, G. Kisch, *Leipziger Schöffenspruchsamlung* (Leipzig, 1919), §205, p. 178: 'auf das felt und an sulch stett, do sich das gepurt, begraben last.'

[146] Dieselhorst, 'Nürnberg' (see n. 40), 62 (burning). Cf. Knapp, *Nürnberg* (see n. 103), 99 (fields); and cf. J. E. Böhme, *Diplomatische Beyträge zur Untersuchung der silesischen Rechte und Geschichte*, vol. 2, pt. 2 [= Pt 6 of the whole work] (Berlin, 1775), p. 150: 'man sal en werffin yn eynen sumph adir bruchtecht'.

[147] E. Besta, *La Sardegna medioevale*, (Palermo, 1908–9), vol. 2, 219. Besta regarded this as common in lands 'subject to Byzantium'.

[148] Fra Giordano of Rivalto, OP, preaching in Florence on the morning of 3 March 1306, ed. C. Delcorno, *Quaresimale Fiorentino* (Florence, 1974), 160.13–161.22, esp. 161.18–20: 'è una de la piú orribili cose di questo mondo pur a vedere. Questo s'usa tuttodí là da' monti, per tutta La Proenza e per tutta Tolosa e per quelle parti . . .' Bartolus de Saxoferrato, *Commentarium in digestum novum, In Dig.* bk 49, tit. 16, lex 3, in *Opera* (Lyons, 1506), vol. 5, p. 985 (on a noble *miles* whose deserts the army in war): 'debet suspendi plebeius miles, non suspenditur, sed decapitatur, et ita servatur in Italia; sed in Francia servatur contrarium, quia quilibet etiam nobilis suspenditur, nec habetur illa mors ita ignominiosa, sicut in Italia'.

[149] Tanon, 430: 'fut enterré, soubz ledit gibet'. Baechtold-Stäubli, *Handwörterbuch*, vol. 7, col. 1631, §5, at n. 45 gives several later allusions to burial under the gibbet.

assembly of religious processions too large to be held anywhere else—between Ste Catherine-du-val-des-écoliers (just outside the south-eastern section of Philip Augustus's wall) and the Bastille.[150]

Burial under the gallows, besides cheapness, convenience, and the required shameful associations, might hold a further advantage to the holders of the jurisdiction the gallows represented: it would leave no doubt about whose High Justice was at work. We know this mattered to some jurisdictions. The registers of the abbeys of the Île de France, conspicuously jealous in this respect, sometimes go out of their way to emphasize that the body was buried within the abbey's jurisdiction. At some date around 1300, for instance, a woman had hanged herself in a village whose main square and other parts (but not the whole village) belonged to the monks of St Maur-des-Fossés, and the abbey's criminal register ends its report by saying that when she had been *justicié*—it does not say how—the abbey had her buried 'on our own land in the village' (*in terra nostra apud dictam villam infodiri*).[151] Another such report from the same abbey from around 1278 ends (without mention of 'justice') 'we had her buried in our land at Ozouer.'[152]

The carrion-pit

Some of the same recommendations would apply to the local pit for offal or carrion. Late medieval German town records can refer to the town's *Schindegruben*, 'knacker's pit', as a destination for suicides' bodies, a destination shared by the bodies of several other kinds of executed criminal.[153] That this represented older custom is indicated by a reference in the twelfth-century *Kaiserchronik*, a fanciful history of Rome written near Regensburg, which has the Emperor Nero commit suicide and the people (*liute*) wishing to pull him out by the feet and drag him to the *burcgraben* (town-ditch).[154] That this might have been a widespread practice even outside Germany is shown partly by an Italian case from near Tolentino, where a village woman believed herself to be a suicide's widow and feared her husband would be buried *in fossa*. That phrase should probably be translated as *the* ditch, and understood as the municipal waste-disposal site.[155] In England, similarly, although the Eyre rolls are grudging of any information about the disposal of bodies, one roll (from 1283 near Dunstable) has a suicide's body thrown in *fovea*, though later retrieved and buried by friends. There, too, we could probably add a 'the', and

[150] *Questiones Johannis Galli*, quaest. 240; ed. M. Boulet (Paris, 1944), 287.
[151] Tanon, *Hist. de justices*, 335. [152] Ibid., 334.
[153] e.g. Kriegk, *Frankfurt*, 221.
[154] *Kaiserchronik*, lines 4291–2: 'die liute solten oin ûz tragen,/bi den fuozen sôh man in den burchgraben' [ed. E. Schröder, *Mon. Germ. Hist., Deutsche Chroniken* (1895), p. 160].
[155] *The Violent against Themselves*, 248.

see the *fovea* as the community's place for refuse.[156] As for France, some hint of the same resource, although it is not expressly mentioned in any of the judicial or religious documents or in the chronicles, is given by an early fifteenth-century northern French poet who has the body of an imaginary suicide left in the ditch (*son corps livrer au fossier*).[157] This solution, being uncomplicated, may thus have been correspondingly frequent.

Road junctions

The choice of defined places has so far admitted explanation on practical grounds without the need to appeal to folklore. The same would have to be said with less confidence in respect of some other burial-spots. From the sixteenth century onwards, especially from England and Germany, references are extant to the burial of suicides at crossroads or at road junctions. These places are rarely specified in the few *medieval* sources that touch on the subject and two which do are both, significantly, from Germany. Thus the old *Landrecht* of Silesia, dating from the thirteenth century, lays down that when someone kills himself in a house or in the fields he shall be buried on a road junction.[158] The fourteenth-century Nuremberg prescription quoted earlier, offering the choice of barrel or burning, likewise orders that if the latter choice is made the burning shall be 'in the open fields *or at a road junction*'.[159]

Road junctions have their own place in medieval law and lore. Two early texts about them, while they say nothing of suicide, may help in the reading of the two or three later ones which do. The seventh-century Law of the Ripuarian Franks lays down a complicated procedure for the burial of a man who has died naturally while defending a case in the popular court: he is to be buried at a crossroads with a noose round his foot, the end of which noose must project above the ground so that, when a new court meets to consider his death, six witnesses of the original burial can each hold the rope's end in turn and swear that that was how he died.[160] There, it is hard to avoid the impression that the provision is practical, and designed to prevent impatient plaintiffs from secretly killing their defendants. Crossroads were public, after all, and

[156] *Annales monastici*, ed. H. R. Luard. Rolls Series (1855), 260.

[157] MS London, BL, Royal 14 B ii, fol. 71^{v}. On the poet and poem, *Le chemin de vaillance*, more will be said in *The Mapping of Mental Desolation*.

[158] Ch. 13, dist. 1; ed. J. E. Böhme, *Diplomatische Beyträge* (see n. 146), vol. 1, pt. 1 (Berlin, 1772), 94: 'Wer sich selbir totet in eime huse adir czu felde den sal man begraben uff einer wegescheidunghe'. For the context and origin of this law book see P. Drechsler, *Sitte, Brauch und Volksglaube in Schlesien* (Leipzig, 1903), vol. 1, p. 311.

[159] H. Knapp, *Das alte Nürnberger Kriminalrecht* (Berlin, 1896), 99; Dieselhorst (see n. 40), 62 and n. 29.

[160] *Lex ribuaria*, ch. 72, §§1, 5; *Mon. Germ. Hist., Leges in folio*, Sectio 1, vol. 3, pt 2, p. 125; cf. J. Grimm, *Deutsche Rechtsalterthümer*, 2, p. 327.

the procedure was well-calculated to identify the corpse and how the man had died. The second early text on road-junction burial is in Burchard of Worms' penitential book, the *Corrector*, written just after the millennium. Burchard speaks of practices of a more magical kind, saying people hang up objects at crossroads, human limbs, or enchanted herbs as cures for illness.[161] Unlike the *Lex Ribuaria*, which *pre*scribes, Burchard's *pro*scribes. Penance, he says, is to be done by anyone who has performed these magical rites at crossroads.

These texts on road-junction burial in general will help us judge the Rügen law, which lays down this kind of burial specifically for suicides. The question it poses is whether, like the Ripuarian Law on the dead defendant, the Rügen law can be explained in practical, forensic terms, or whether, like the rituals of Burchard's parishioners, the crossroads have a magical or symbolic function. *Prima facie* the Rügen law seems to incline to the second category, because it 'makes the punishment fit the crime' in a way not uncommon in medieval customary law and suggestive of some kind of ritual purgation, as if a particular type of dreadful deed can be neutralized by homoeopathic magic.[162] But another reading is possible, as a glance at the text itself will show. The Rügen law lays down that when the local court, through its officers, has extracted the suicide from the house with the rituals I described earlier, it should

> drag the body to the nearest crossroads, where two or three field boundaries are marked, and there bury it in the ground and soil of the lordship in which he killed himself, putting his head where Christian dead have their feet.[163]

The principle 'let the punishment fit the crime' now follows. The Rügen law goes on:

> The noose with which he has hanged himself should be put round his neck, and if it is not long enough the underground part should be lengthened, so that an end three shoes long is free to lie over the ground, as a testimony to the self-imposed death and

[161] *Corrector Burchardi*, chap. 98 [82]; ed. H. J. Schmitz, *Die Bussbücher und das kanonische Bussverfahren* (Düsseldorf, 1898), p. 430.

[162] Magical-symbolic aspects of these procedures are emphasized by some authors, e.g. latterly by Schmitt, 12 ('L'expulsion des corps du suicidé dans un tonneau bien dos et jeté à l'eau touche aux traditions folkloriques les plus profondes . . . [etc.]', and Kühnel (on the same subject in the same sense), 476. In what follows I do not deny altogether the effect of the 'suitability' principle in suicide punishments (in the Zürich case of 1417 the fact that the suicide had been accomplished by drowning was adduced by the authorities as a reason for throwing the body in the river; Osenbrüggen, *Studien*, 339: 'in ein vas slahen und das wasser ab richten sol von des wegen, dass er sich selb ertrenkt und ertoedet hat'); but most of the evidence bears a more pragmatic interpretation.

[163] Tit. 247 §7; ed. T. H. Gadebusch, *Wendisch-Rügianischer Landgebrauch* (Stralsund and Leipzig, 1777), 321: 'und leth en mit einem Perde henschlepen up den nechesten Kreutzweg, dar sick twe edder dre Feldtmarken scheiden, und grefft en in des edder der Herschop Grundt dar he sick inne ummebracht hefft, men lecht en dar dat Hovet, dar de christlichen Doden de Fute hebben.' Numbers have been added to Gadebusch's paragraphs.

to instil terror of it. [That last phrase is not in German but in Latin: *in testimonium et terrorem concitatae necis*].[164]

But what if the suicide has died by some other method than hanging? The provision for self-stabbing is different, and involves the symbolic use of a knife:

If the man has stabbed himself with a knife then the procedure is the same except that a tree or piece of wood is to be near the dead man's head, and the knife with which he did the deed stuck in it, so firmly that no one can pull it out. (If anyone dares to, or to cut off the noose, the miscreant will on discovery pay with his neck in the jurisdiction in which all this has occurred.)[165]

With the self-stabber we remain at the crossroads. But a third category of suicide is envisaged which takes us away from roads altogether: the self-drowner.

If anyone drowns himself of his own will, let a court meet over his case and bury him five shoes away from the water, in the sand. If the water is the duck-pond the body should be taken away from the steading and put on a hill or by a roadside, with three stones on, one on the head, one on the trunk, one on the feet.[166]

I have set out these Rügen provisions in full so that we can measure the problem they pose and evaluate the following explanation. Courts were urgently concerned to prevent homicide, at a time when homicides more often than not went undetected. 'Murder' in old Germanic law was a term reserved for secret homicide, more severely punishable than any other because law preferred its problems out in the open. If a suicide was not to be put in the churchyard, like an ordinary corpse of whose death everyone knew the occasion, then he must be put in a public place, not hidden away as another mysterious dead body, a victim of *mordr*. Simultaneously, since the place was public, illiterate passers-by must know symbolically *why* the corpse was there. It must be shown to be that of a person who had died in a particular way by a particular instrument. The court knew about it, and had stamped the death with its ritual. What shores and crossroads had in common was their combination of remoteness from human settlement and publicity. *Any*one might pass that

[164] Tit. 247 §7, '. . . dat Strick dar he sick an gehenget, leth men em oderm Halse, undt iss dat nicht lang genog, so lenget men dat binnen der Erden also dat ein Ende dre Scho lang baven der Erde kan liggen bliven *in testimonium et terrorem concitatae necis*'. The expression *conscitata nex* was classical (cf. Grisé, *Le suicide*, 291–2) and passed into Roman law.

[165] Ibid., §9: 'Steke he sick suelvest doch, men handelt glick wie vor, und settet em einen Bohm eder Holt tho den Hoveden undt schleit dat Messer in dat Holtz, so dat idt nemandt unthobracken daruth thehen kan. Toege einer mothwilligen solke Metzer uth dem Holtze houwede den Strank aff, quam dat uth, de Daeder moth den Halss loesen im Gerichte, dar sodahnt schuett edder geschehen iss.'

[166] Ibid., §10: 'Vorsoepede sick einer mothwilligen, men leth dat Gerichte over em holden und grefft en vyff Scho lang van dem Water int Sandt; Iss idt eine Puette, men grefft en buten Hafes up einen Berch edder an einen Wegk und settet em drey Steine, den einen up dat Hoevet, den anderen up dat Lyff, den druedden up de Voete.'

way. That would suit the law's purpose. The hill may be another matter, but there too the didactic purpose of the ritual springs to the eye. For in the text just quoted, the corpse is not to be buried but left to decay and be eaten, and for anyone to see meanwhile, the three stones marking unmistakably that it has been deliberately put there and for a legitimate reason.

The road junction was public. It was also, as the Rügen law spells out, often a boundary. That introduces yet another concept governing suicide burial.

Boundaries, river-banks, and shores

Suicides were sometimes to be buried on boundaries between properties or jurisdictions. Here, two contrary principles were at work. Where rival territorial jurisdictions were closely packed side by side and where suicide was an subject of High Justice, a premium would attach to the burial of a suicide firmly *in*side the boundary, and to letting rivals know you had done so. That was the policy of those French abbeys. Where that consideration did not obtain, especially where beyond the boundary lay a wilderness, the opposite principle was stronger, in that an embarrassing corpse had to be got out of the way. That latter motive may have been behind the rule endorsed in Plato's *Laws*, when the Greek *polis* was acclimatizing its neighbours to the idea of land boundaries, that suicides be buried on such a boundary.[167] Similar conditions may account for the several instances of the same rule from post-medieval Germany.[168] Anglo-Saxon archaeology has been rediscovering heathen burial-sites on this kind of boundary, and finding that their 'heathen' character attached less probably to any pre-Christian religious associations than to their use as graves for *personae non gratae*, including England's earliest felons.[169] Perhaps *felones de se* were among them. But lack of evidence, and

[167] Plato, *Laws*, bk 9, 873D. Relationship of the early Greek *polis* to its surrounding undeveloped land: F. de Polignac, *La naissance de la cité grecque* (Paris, 1984), esp. 44–66; and cf. below, pp. 505–7.

[168] Baechtold-Stäubli, *Handwörterbuch*, vol. 7, col. 1631 [§5] and n. 147. But of Baechtold-Stäubli's five identified sources on this particular I have examined the following four and only one refers specifically to boundaries: P. Geiger, 'Die Behandlung der Selbstmörder im deutschen Brauch', 163, giving six references, all from German-speaking areas, to burial on crossroads and boundaries, as well as in 'distant places'. I give the others for ease of reference: (1) R. Kühnau, *Schlesische Sagen* (Leipzig and Berlin, 1910–13), vol. 3, 209, quotes reports from the 1840s of an insistence by locals to Gräfenberg and Freiwald that suicides be buried not in the churchyard but deep in the forest; (2) B. W. Schiffer, 'Totenfetische bei den Polen', *Am Urquell. Monatschrift für Volkskunde*, 3 (London and Hamburg, 1892), 49–54, esp. 50: (near Cracow) suicides are buried far away, in forests or deserts, for fear of hail; (3) J. Kuoni, *Sagen des Kanton S. Gallen* (Sankt Gallen, 1903), 263: (near Alttoggenburg) 'a hundred years ago' the ruins of Rudberg had a bad name because suicides were buried near them.

[169] On barrows and Anglo-Saxon boundaries: J. Blair, *Medieval Surrey*. Surrey Archaeological Society (London, 1991), 18–19, and 181, n. 25 (bibliography). P. Wormald, *The Making of English Law*, vol. 2 (forthcoming), ch. 6 ('Burials').

the delicacy of all questions about dark-age boundary burials—of which there are quite other kinds—forbids any certainty.[170]

There is, however, solid medieval evidence for one special sort of boundary: that between land and water, water being a kind of wilderness like the one just mentioned. One of the French abbey registers says of a woman who had hanged herself, in 1266, that she was buried 'aus chans *et sablons* de Bloment', *sablons* there denoting sands on the edge of a river.[171] The sixteenth-century Italian jurist Farinacius gives a further example, recalling from his own memory two cases of suicide in Rome in which the bodies were buried on the banks of the Tiber near the Ponte Sisto.[172] Related to this usage would be burial in marshes. A Silesian judicial register has an entry for 1385 which tells how a town council and magistrates, in doubt what to do with the body of a man who had hanged himself (on Friday in Holy Week) asked the lawyers of the diocesan court, who told the magistrates on no account to bury the man in 'firm' ground, on pain of excommunication, but rather to throw him in a marsh (or if that cannot be done, down a ravine), which was done.[173] The burial of suicides in marshes is also attested by post-medieval folklore.[174]

A kind of marsh relatively prominent in medieval evidence is the salt-marsh next to the sea. The earliest Norwegian laws direct that suicides, together with murderers, truce-breakers, thieves, and other miscreants, should be excluded from the cemetery and buried on the shore 'where the tide meets the green sod'—another sort of boundary.[175] A late-medieval miracle story, probably from the thirteenth century and relating to the German North Sea coast, tells of the same practice: a virtuous wife was murdered by her husband, who gave out that she had committed suicide, so that her corpse was 'thrown out of the town with great dishonour to the shore of the bay, and there buried with two robbers who had been hanged there [*cum magna dedecore . . . iuxta*

[170] On the delicacy of questions in this regard: T. C. E. Charles-Edwards, 'Boundaries in Irish Law', in P. H. Sawyer, ed., *Medieval Settlement* (London, 1976) 83–7.

[171] Tanon, *Histoire des justices*, 400. The Rügen laws prescribed burial in the sand only for someone who had drowned himself in the nearby river: chap. 247, §9; Gadebusch, *Wendisch-Rügianische Landgebrauch*, p. 321.

[172] *Praxis*, bk 1, tit. 1, quaest. 11 §80 [(Frankfurt, 1597), p. 135: 'omnia denuntiari feci curiae Reverendissimi Gubernatoris, qui tunc cadaver illud ad urbem de eius mandato transportatum et recognitum non iterum suspendi, sed proper Portem Sixtum ad fluminis Ripam ecclesiastica denegata sepultura sepeliri'. Farinacius had himself found the man hanged in his vineyard one evening. The man had been overwhelmed by debt.

[173] Grimm, *Deutsche Rechtsalterthümer*, 4th edn, vol. 2, p. 326. See below, pp. 465–6.

[174] P. Geiger, 'Die Behandlung der Selbstmörder im deutschen Brauch', 158. Geiger also quotes here a nineteenth-century Bavarian folk-song which suggests a suicide would be buried in a marsh.

[175] *Gulathing Law*, ch. 23. In L. M. Larson, trans., *The Earliest Norwegian Laws* (New York, 1935), 51. Date: K. von Amira, *Germanische Rechtsgeschichte*, 4th edn, vol. 1 (Berlin, 1960), 112–13, where the first redaction of Gulathingsbók is assigned to the first half of the twelfth century 'if not under Olaf Kyrene (1066–1093)'.

maris sinum].'[176] The miracle in the story was that: 'because of the sea-tides the place was often reduced to marsh . . . and a certain blind man went down to wash his face there, and the blind man was healed.' Other miracles followed, the husband's crime revealed and his victim, now known to be innocent, was moved to the cemetery.[177] It is to be noted that she had not been burned but buried, and buried in a place doubly determined, being *both* a sea-marsh *and* under the gallows.

Other indignities: stones

Among indignities inflicted on the suicide's body other categories appear only occasionally. The Rügen code of 1530, whose list of them is exceptionally long, includes for the suicide burial under stones.[178] A celebrated case from fifteenth-century Devonshire echoes this provision: in 1451 near Totnes a JP was dragged from his house by enemies, buried under a heap of stones, and reported to have 'killed himself', a falsehood which, like that about the wronged wife Margaret, suggests what was expected to be believed, namely that suicides were indeed sometimes buried under stones.[179] Again, the post-medieval Germanic world yields several examples of this practice.[180]

Staking and decapitation

From the sixteenth century onwards there is abundant testimony in some parts of Europe, especially northern and eastern Germany but also England, to the driving of a stake through a suicide's interred body, pinning it into the ground.[181] There is also evidence for the beheading of the suicide's corpse, the head being normally put between the legs.[182] Suicide apart, both practices are known from early medieval saga and law, confirmed by archaeology, apparently as a means to prevent dangerous corpses from haunting the living. But

[176] MS London, BL, Add. 14833, fol. 137r. Cf. J. A. Herbert, *Catalogue of Romances in the Department of Manuscripts in the British Museum*, 3 (London, 1910), p. 589, no. 90; and F. C. Tubach, *Index Exemplorum* (Helsinki, 1969), no. 5282.

[177] Ibid.

[178] Tit. 247, §9; ed. Gadebusch, *Wendisch-Rügianischer Landgebrauch*, 321.

[179] R. L. Storey, *The End of the House of Lancaster* (London, 1966), 169. The victim was Nicholas Radford.

[180] Geiger, 'Die Behandlung der Selbstmörder im deutschen Brauch', 163.

[181] Ström, *Sacral Origins*, 187–8; Baechtold-Stäubli, *Handwörterbuch*, vol. 6, cols. 1550–2; vol. 7, col. 1630, §4; K. A. Geiger, 'Selbstmord im deutschen Recht', 6. Dieter Feucht, 'Grube und Pfahl, Ein Beitrag zur Geschichte der deutschen Hinrichtungsbräuche'. Dissertation (University of Tübingen, 1967), 158.

[182] Ström, *Sacral Origins*, 166–71; Geiger, 'Behandlung', 161–3; Baechtold-Stäubli, *Handwörterbuch*, vol. 2, col. 857.

the fear against which the practices were directed attached to dangerous persons in general, like condemned criminals, and not only is there next to no evidence that either practice, or any other kind of mutilation, was applied in the medieval period to the bodies of suicides; there is some in the opposite direction. For Bishop Burchard of Worms' *Corrector* says the bodies of unbaptized infants and of mothers who have died in childbirth are to be fixed to the ground with stakes, and says why: 'because the dead might rise and do harm to many'.[183] But although suicides are mentioned elsewhere in Burchard's *Corrector*, they are conspicuous by their absence in this passage on the staking of corpses.[184] Nor does staking or decapitation appear in immediate connection with suicide in the Rügen, Dithmarschen, or Neumünster customs, otherwise explicit on funeral rituals, though there is a just possible late medieval mention of it in Riger. Much less does any hint of these penalties for suicides occur in other legal or in narrative sources.

Some writers familiar with this subject have tended to blur this chronological profile with the assurance that practices relating to the bodies of suicides are age-old and resistant to change.[185] Such evidence as there is, however, points the other way, that is, towards the relatively late inclusion of suicides among the dangerous 'undead' whose corpses had to be fixed or neutralized. It is not enough to say that this inclusion reflected the influence of Christianity,[186] since at the time Burchard of Worms wrote, Christianity had been present in western Franconia for 700 years and Burchard was perfectly well aware of the canons—themselves some 400 years old—which denied suicides normal Christian burial. If, as I believe, some of these drastic sanctions on suicides really were a late or post-medieval arrival, then their source is to be sought rather in social and religious conditions specific to the very end of the Middle Ages and just afterwards. In this they resemble the great witch-craze, except that here, if the hypothesis drawn at the end of my previous volume is correct, a relatively obvious explanation suggests itself, that in the sixteenth century there were more suicides and hence more fear of suicide, and therefore more horrific penalties.

The body of a suicide, then, had to be disposed of, and my aim has been to discover what peculiarities in the means of its disposal flowed from the manner of death. We have not, in fact, quite finished with the question of the body's disposal, and shall discover later why one fragment of the answer is best left until then. What has been seen is a collection of evidence, not always consistent with itself but all, in some way, anomalous in its time and hence in

[183] Ch. 180; ed. Schmitz (as in n. 161), p. 448. [184] Ch. 181, ibid.
[185] Ström, *Sacral Origins*, 187. Cf. De Vries, as in n. 11.
[186] Ström, *Sacral Origins*, 187; Feucht, 'Grube und Pfahl', 171–2.

need of explanation. What was the thinking or feeling behind these unusual practices? But we are proceeding by stepping-stones, and the next stone leads us away from the body of the suicide into a contiguous area, equally in need of pedestrian inspection: his property.

2

The Property

Most written law is about property. Concerns about property occupy some three-quarters of the Roman *Digest*, and that bias is reflected in later medieval national laws. A leading writer on the medieval English common law can even declare that its lawyers thought very little about crime at all, as if crime was its 'dirty job' compared with property.[1] One result of the bias is that laws on what was done to a suicide's property are not only intrinsically more complex than those about the body—raising distinctions of movable and immovable, family and others' rights, and countless kinds of tenure—but are morticed more extensively into local legal systems. All this makes them suitable subjects for monographs, among outstanding examples of which are Robert Caillemer's and Pierre Timbal's essays on confiscation in late medieval French law, and Edoard Volterra's general essay on confiscation for suicide.[2] Wide nets have thus already been cast, wide in terms of sources and issues, if not of regions. To try to summarize all they said would take the present enquiry far out of its way, so I shall narrow down my questions to one simple one, and use these existing secondary authorities, together with the primary sources, to answer it. The simple question is, so far as can be divined from the treatment of a suicide's property, to whom was suicide conceived to be a wrong?

The reason for identifying this particular question and building a chapter round it is, besides its intrinsic interest and the sources' capacity to give answers, that it dovetails this part of our investigation with the larger whole. We shall also be considering ethical comments on suicide, and the doctrines embedded in law, implicitly or explicity, have their own message in this

[1] S. F. C. Milsom, *Historical Foundations of the Common Law*, 2nd edn (London, 1981), 403, cf. 8.

[2] R. Caillemer, *Études sur la confiscation et l'administration des successions par les pouvoirs publics au moyen âge* (Lyons, 1901); P. Timbal, 'La confiscation dans le droit français des xiii^e^ et xiv^e^ siècles', *Revue historique de droit français et étranger*, 4^e^ série, 21 (1943), 44–79 [= ch. 1–2], and 22 (1944), 35–60 [= ch. 3–5]; E. Volterra, 'Sulla confisca dei beni dei suicidi', *Rivista di storia del diritto italiano*, 6 (Bologna, 1933), 3–26.

context. In particular, I shall estimate the degree, if any, to which the Church may have influenced suicide laws in any of its varied roles.

Answering the question must involve three stages. The first will relate the subjects of this chapter and the previous one, by depicting usages which treated property and body as much the same. Then we shall look more closely at the rules of confiscation, and focus the question narrowly: to whom or what was suicide seen to create an *economic* debt? A third section will deal with the main modifications allowed by late medieval law, to answer the complementary question, in what respects the debt itself was seen as open to remission.

Bodies and Possessions

A man's body and his possessions appear to us now as two different concepts, sharply distinct, like Aristotle's categories. As with all widely-accepted distinctions, anomalies hover between the categories, like hair, or spittle, or a fitted ear-ring, or a gold tooth-filling. But we still think of a man as the physical biped five or six feet in height and apparently defined by his epidermis. 'Apparently', because it is, in fact, in respect of this kind of distinction, accepted without question as a line between categories in our own everyday thinking, that the serious study of medieval history promises a reward, since it exposes our unfounded assumptions by letting us inspect them from outside, from centuries away. This chapter has therefore to begin by asking whether it should be a separate chapter at all. Were a suicide's body and his property, in the last resort, really so different?

The body as property

There were two ways in which they could look the same, and we shall be meeting them both. One was economic and applied especially in the early Middle Ages. Land was then plentiful, like the sea today—or until recently—so that the power of a dark-age 'rich' (= powerful) man lay in quantities not of land but of men. His need for men to work land led to an obligation to service, and that meant a man's body, especially its muscles, could essentially *be* someone else's property, inherited with an estate along with the bodies of cattle and sheep whose names, as centuries passed, have come to *mean* 'property' (as with 'chattels' and 'pecuniary'—from *pecus*, flock).[3]

[3] The above observation, about the relative values of land and men, was made with characteristic perceptiveness by the late Georges Duby, *Guerriers et paysans* (Paris, 1973), 21; R. Ris, *Das Adjektiv 'reich' im mittelalterlichen Deutsch.* Quellen und Forschungen, Neue Folge, 40 (Berlin, 1971); and standard dictionaries.

This economic difference is echoed by another, in the way present and past generations read their environment as symbolic of social relations. That difference only concerns us now as the context of those features in medieval suicide laws which treat the corpse and the property on a par. French legal records often treat them in one breath: 'il perd le corps et le sien' (he loses the body and 'his'), 'qui confisque le corps confisque les biens' ('who confiscates the body confiscates the goods'), and similar expressions.[4] We have seen what 'losing' meant in respect of the body and will see it as an analogue in respect of property. Although their legal fortunes could diverge, sometimes diametrically (so that a man could keep his body and lose his property and vice versa) there remained a middle zone where body and property meant *almost* the same thing.

Within it there were distinctions, in that some kinds of property were closer to a person than others. Thus in German towns it was common custom in the late Middle Ages—perhaps in the earlier: we do not know—to allow the hangman who executed the body of a suicide, or any other criminal for that matter, to take things immediately adhering to the victim's body: his clothes, or even—the evidence is now only from the sixteenth century—other things closely associated with him such as the horse and cart which brought the corpse or even, in some places, anything the executioner could reach with the point of his sword from the spot where the suicide had taken place.[5] But a distinction which struck much deeper root in economic psychology, and therefore in confiscation law, was that between movables and immovables. Both could, but need not, attach closely to a person as if to his body. Some lawyers said it was movables that did this, and followed the axiom *mobilia ossibus inhaerent* ('Chattels inhere to the bones').[6] If other lawyers challenged that and treated chattels and person differently, the principle itself, that chattels cling to the bones, had had its golden age at a time before there were lawyers. No one had then questioned that a warrior's sword and other favourite artefacts went with him to the grave, and indeed beyond, and stuck to his very name. In settled societies, meanwhile, a similar intimacy could grow between

[4] Garrisson, who had studied some scores of French customaries, notes the frequency of the expression; *Le suicide*, 117, cf. 121; also Bourquelot, 'Recherches', pt 2, p. 264 (quoting a Bordeaux customary: 'pert lo corps et los bens ayssy'); and K. A. Geiger, 'Selbstmord im französischen Recht', 391 and n. 3.

[5] K. A. Geiger, 'Selbstmord im deutschen Recht', 1920, on the so-called *Henkersgelde* or *ius carnificum* represented—doubtless by the hangman—as an 'immemorial' custom *c.*1700. These extensions, beyond the clothes, were however not included in fourteenth- and fifteenth-century inventories of a hangman's perks in well-documented Cologne: F. Irsigler and A. Lassotta, *Bettler und Gaukler, Dirnen und Henker* (Munich, 1984), 235–7; nor have I found any record of them—for instance, in records of disputes about a hangman's rights—in medieval judicial records (for what that negative finding is worth).

[6] Timbal, 'Confiscation', ch. 2, p. 62.

a man and his house and land, as many surviving personal and place-names also show. And if the association of body and property had an economic side, it also had a symbolic one: in respect of good men, whose intimate property, like St Peter's keys, could be honoured along with their bodily relics; and equally in respect of bad, like murderers or suicides. When this happened with bad men, then, in an act of iconoclasm, both body and property could be savaged at once.

'Ravage'

In respect of the suicide's property, this fact is clearly visible in a practice by which the property was ritually destroyed, much as in the savaging and mutilation of corpses. The ritual destruction could be partial, like the removal of a wall or the roof of a house; or temporary, like the ravaging of vines or crops and the coppicing of trees; and both modifications would grow after the late thirteenth century. But the original custom, often known by a word equivalent to the English 'ravage', meant just that, with no modifications. *The Customs of Anjou and Maine*, written in 1411 but recording a practice claimed as much older, give a clear description. They called the ritual *ravaire* and prescribe it for three kinds of offence: *rapt*, *meutre*, and *occis*. *Rapt* was rape. *Occis* was the killing of a pregnant woman or a foetus inside her. *Meutre* was the more culpable kind of homicide, with malice aforethought. It included suicide. When a holder of High Justice has adjudged someone guilty of suicide and therefore of *meutre*, and has 'justiced' the body and appropriated the chattels, the justiciar turns to the culprit's *heritage*. There

> the houses should be pulled down [or torn open on the side of the main road]; the fields should be burned, the vines cut and uprooted, and the woods felled to the height of a man. This is called 'ravaire'.[7]

That the bracketed passage is only in some manuscripts of the Customary suggests it modifies an even more severe ancient rule, hereby partially relaxed.

Albert Bayet, the great French historian of suicide, searched hard for further evidence of *ravaire* in French customaries other than the one for Anjou and Maine, and found none.[8] Like all negative evidence, that is of interest,

[7] M. C.-J. Beautemps-Beaupŕes, *Coutûmes et institutions de l'Anjou et du Maine antérieures au xvi^e siècle*, vol. 1 (Paris, 1877), 430: 'Les maisons doibvent estre fondues [ou descouvertes du cousté du grand chemin], les prez ars, les vignes tranchées et estrepées, et les boys tranchez a haulteur de homme, et l'appelle on ravaire.' The term 'holder of High Justice' translates 'le comte ou baron'. Caillemer, *Études*, 29–30 quotes an Angevin code later in date but perhaps more primitive, since it allows no modification either to the house destruction or the felling of trees, and adds the devastation of fields [*les prez arrestz*].

[8] Bayet, *Le suicide et la morale* 438.

especially from such a thorough researcher as Bayet. But the absence of the usage from customaries does not prove it was confined to Anjou and Maine, and indeed some actual cases from criminal registers prove the opposite. That of the abbey of St Maur near Paris, fifty miles or more from the eastern boundary of Maine, records the suicide around 1300 of a woman living in La Brosse, a village now on the eastern outskirts of the capital. As usual, the register underlines features in the story which prove the abbey's jurisdiction, and describes the woman's posthumous punishment as follows:

> We did justice on her and had her buried in our land at the said village, and we had her house, which was near our town square [*plateam nostram*], pulled down on account of the said deed [*dirui propter dictum factum*].[9]

The record goes on to say the woman's vineyard was *not* destroyed, but recovered for the abbey.[10] Vineyards were clearly different. Symbolic punishment could be taken too far.

A second register to include *ravaire* is the municipal Red Book of Abbeville, and it includes instructive details. Two suicide entries, one for 1305 (of a 'clerk and merchant' who had hanged himself at Amiens) and one for 1336 (of a man who had 'hanged himself at St Riquier around Pentecost last') say the suicide's house in Abbeville was knocked down. The 1336 entry not only reveals a long delay (since the destruction of the house occurred on 10 April, some eleven months after the suicide) but specifies the time of day: 'on this day [10 April], after the three bells had sounded [of the early morning *angelus*], a house in the rue de Lauke was knocked down [*on abati une maison en la rue de Lauke*].'[11]

Since other suicides in the Red Book are not registered as attracting this penalty, the question arises why these two did. Since both were absentees, and nothing was said in either entry about the dragging or hanging of the corpse (which might have happened elsewhere or not happened at all), this seems to have been the deciding factor. The same happened to banished murderers. For both kinds of malefactor, the Abbeville authorities joined with royal officials in modifying this penalty at some date in the late fourteenth century, when a municipal act says apropos of three murderers

[9] L. Tanon, *Hist. des justices*, 335: 'Quam, justiciando, fecimus in terra nostra, apud dictam villam, infodiri, et domum suam, que erat juxta plateam nostram, fecimus dirui propter dictum factum'. La Brosse was near the Ferrières immediately to the south of the modern 'Disneyland'.

[10] Tanon, *Justices*, 335 [continuing]: 'Item habuimus ibidem dimidium arpentum vinee, que devenit ad nos, ab ipsa ratione delicti predicti'.

[11] J. Boca, *La justice criminelle de l'échevinage d'Abbeville au moyen âge* (Lille, 1930), 80–1; the 1336 case is also in E. Prarond, *Les lois et les moeurs d'Abbeville, 1184–1789* (Paris, 1906), 64.

since by ancient usage and custom the houses of malefactors were razed to the ground [*abattre tout ou net*] . . . the royal and municipal officers have agreed that in future anyone in the Abbeville jurisdiction is banished for murder, the windows, doors and threshold on the front of his house will be removed and burned in front of it.[12]

As that act implies, the destruction of a house could follow offences other than suicide. The same St Maur register, just quoted, itself includes it for several offences.[13] The punishment as such was in fact widespread and had a long history. Pierre Timbal, whose terms of reference included all occasions for confiscation (not just suicide), cites prescriptions for ravaging which date back to Charlemagne's Saxon Capitulary of 797; and from the twelfth and thirteenth centuries, he shows us, ravage could be specified as the 'king's' punishment, to be inflicted, as sole or principal penalty, for the concealment of a banished person or—in the case of nobles—rebellion or rape; and he could have added heresy.[14] The so-called *Établissements de s. Louis* actually oblige a justiciar to ravage whether he wants to or not (he may not have wanted to because he had an eye on the property himself). If the justiciar confiscates non-movable property, the *Établissements* say, the justiciar must also 'burn the houses, plough up the fields, uproot the vines, and ring-bark the trees'.[15] There is widespread evidence that that rule was observed, or had been: for the same collection includes a provision from the Orléannais which gives a justiciar choice in the matter so that he could, if he wished, confiscate a property without ravaging it. It is easy to see that this choice spelt a speedy death to the practice, which in France is found with increasing rarity from the late thirteenth century.[16]

[12] Thierry, *Recueil des monuments* (see p. 25, n. 61), 202–3: 'et pour ce que anchienement en avoit usé et accoustumé de abatre tout au net les maisons des malfaiteurs . . . a esté fait acord entre les officers du roy et les officers de le ville, que depuis ores en avant toutes fois que aucuns des subgets de le ville feront homicide en le dite ville et seroit bannys, on yra apprez le dit ban fait à la maison du dit malfaiteurs et seront ostés les huis et fenestres de le devanture de le dite maison, et le seullure ostée, et tout jeté au feu et ars ou devant de le dite maison.'

[13] Tanon, *Justices*, 330, 333, 334; cf. Timbal, 'Confiscation', ch. 2, p. 79 n. 9.

[14] Timbal, 'Confiscation', ch. 2, pp. 77–8; H. C. Lea, *A History of the Inquisition of the Middle Ages*, vol. 1 (New York, 1908), 495, where 16 of 636 penalties imposed by Bernard Gui, OP, order that houses be destroyed. That heresy attracted the *nec plus ultra* of this penalty is indeed suggested by Nicholas Eymerich's and Francisco Peña's *Inquisitors' Manual* (1378), which enjoins that the site of the condemned heretic's house should, after the house's destruction, never be built on but sown with salt (to prevent its cultivation); the stones it had been built of should go to the church and only a stele, or inscribed post, record whose it had been; L. Sala-Moulins, ed., *Nicolau Eymerich, Francisco Peña: Le manuel des inquisiteurs*. Le savoir historique, 8 (Paris and The Hague, 1973), 200.

[15] *Établissements de saint Louis*, bk 1, §28; ed. P. Viollet, Societé de l'Histoire de France, vols 194–7 (Paris, 1881–6), vol. 2, [= 195] pp. 38–9: 'et se il ont terres, ne maisons en la terre au baron, li bers les doit ardoir et les pres ourer, et les vignes estreper, et les aubres cernez.'

[16] Timbal, 'Confiscation', ch. 2, p. 78 n. 11.

In Germany, meanwhile, the destruction or burning of houses is recorded as a normal and long-standing option open to judges for some offences, though none of the documents specify suicide among these.[17] As for England, its law was as usual precocious. By the time records start to multiply, they show that confiscations normally went to the king, and he wanted their value undamaged: ravage would have been counter-productive. Vestiges of the more symbolic and destructive practice nevertheless remained and may tell us something of its character. In 1371 a farmer near Alton in Hampshire killed himself and his neighbours took several acres-worth of crops from his land, pulled down his water-mill, removing the wheels and millstones, and cut down two oak trees and an ash. The royal inquisition which reveals all this noted the price of every stolen item as if to say *that* was how the crown saw matters: this property was for the king to do what he liked with, not for the neighbours. The neighbours, for their part, had acted on mixed motives, some symbolic and some economic. Throwing the claim of the suicide farmer's heirs deliberately to the winds, they had smashed some items of property, while seizing other items for their own use.[18] Heirs or no heirs, a suicide's property could thus apparently be looted or destroyed at will. Two similar cases from Leicestershire, in 1378 and 1381, concern clerks who left a lot of property and no heirs, and whose neighbours helped themselves on a large scale to all they could lay hands on: one farmer got away with a hundred sheep, and the king's inventory on one of the suicide's chattels comes to some £60. The plunderers were of course all rounded up and made to pay up the value of what they had taken to the king; otherwise we would not know. But their act betrays an attitude, and the fact that the house of the richer of the two suicide clerics was described as in 'ruins' at the time of the inquest may show the plunderers had taken things further.[19] In so far as a sixteenth-century English case is admissible as witness, it strengthens this impression of a destructive free-for-all. Dr Simon Stevenson chronicles then a case where six neighbours of a male suicide broke into his house with axes and smashed or seized furniture and utensils, striking and insulting the suicide's widow as they did so. The Queen's Almoner, who recorded the case, disapproved, and acted accordingly.[20]

[17] E. Fischer, *Die Hauszerstörung als strafrechtliche Massnahme im deutschen Mittelalter* (Stuttgart, 1957), 22–3; scepticism of earlier evidence, 9–21.

[18] *Cal. Inq. Misc.*, 3, No. 837, p. 316.

[19] *Cal. Pat. Rolls, 1377–81*, p. 310, 11 Nov. 1378; ibid., *1381–85*, p. 339, 27 Nov. 1383; Public Record Office, JUST/2/58 m 8d (Inquest of 12 Oct. 1378 on John Scot, parson of Garthorpe); ibid., E 159/159 Easter *recorda* rots. 11, 11d (inquests at Melton Mowbray, 6 April 1383, on John Scot and William de Houby, chaplain. The chattels of the former, inventoried, totalled about £60).

[20] Stevenson, 'Social and economic contributions to the pattern of suicide', 235 [the case of Alice Meare].

These few examples permit a brief word about the motives behind the ravaging of a suicide's house. For some crimes, like the harbouring of an exile, ravage may have acted as a punitive deterrent, that is, it had a perfectly intelligible rationale. For suicide, the case is more complicated. Before economic issues came to predominate and condemn the procedure as wasteful, the destruction of a dead criminal's house was an act of iconoclasm, of image-breaking. It demonstrated how wrong the offence had been. The criminal's very house was outlawed, as it were, deprived of the protection otherwise accorded to property; and this fact must be made publicly obvious. In what is possibly an interpolated clause in the Anjou Customary, moderating the penalty, we saw the stipulation that the side of the house to be destroyed must be that 'on the main thoroughfare', and the same idea moved the Abbeville legislators to disgrace the *front* of the house. This all shows the same public-relations element that we have seen in those open corporal punishments like dragging.

There are nevertheless features in the practice whose explanation is not exhausted by public relations, and suggest something more mysterious. Let me recall, from the last chapter, the apparent taboo that may have attached in some circles to the suicide's noose, and the proven Germanic reluctance to let a suicide's corpse cross the threshold of a house. Possessions close to the suicide and to his act could share this contagious power. The English concept of *deodand*, by which an instrument of violent crime was 'given to God', may have had a comparable origin. These parallels suggest that the same fear of contagion, inherent in the suicide's house and land, lay behind *ravaire*, a suggestion reinforced not only by parallel rituals found in recent times elsewhere than in Europe (for instance, among some East African peoples),[21] but by occasional anomalies in the medieval records themselves. Thus the St Maur register, quoted a moment ago, records several suicides but only one *ravaire* for this offence. Why the exception? Surely (the text can be followed on p. 58) because the house in which the crime had been committed was especially sensitive to contagion, not only because the woman had hanged herself in it but because the house was on *platea nostra*: 'our own village square'.[22] Hence, in this case alone, the house had to come down (and note: it was the whole house, not just a wall). The two Abbeville cases might, it is true, be raised as an exception, since both suicides were absentees; but there we may be looking at the relic of an older custom, preserved only for those whose bodies had escaped disgrace.

For a suicide's capacity to infect a building is also exemplified elsewhere. The monks of Missenden, in Buckinghamshire, in 1297, thought their

[21] e.g. the Busoga, who would burn down a suicide's hut. See p. 538 below.
[22] Above, n. 9.

antechapel might need reconsecrating after a novice had tried to kill himself there.[23] From a similar motive, many German and Italian towns sharpened the punishment for a suicide, complete or merely attempted, if the deed had been done in or near the Council Chamber or other municipal place, as if these must be specially guarded from infection.[24] We have literary witness to the same idea. In the suicide canto of *Inferno*, Dante's 'anonymous Florentine' confesses to having killed himself, and his expression is this:

> I made my own house into my gibbet.
> [*Io fei giubbetto a me delle mie case*].[25]

A gibbet was normally sited out of town, and the fourteenth-century commentators on Dante who identified this anonymous Florentine as the businessman Rocco de' Mozzi were to add, as if it were known history, that Rocco's house was consequently shunned as 'infected'.[26] They do not say the house was pulled down. We know from other sources that the destruction of the houses and property of some homicides was a familiar feature of Italian city politics.[27] It was just that in Italy suicide alone did not earn this penalty—quite: the house was still 'infected'.

The destruction of homicides' houses in Italian towns reflects a more widespread urban tendency. The ravaging of houses, as a judicial punishment, tended to last longer in towns than outside them. In France generally the practice had all but died out by the middle of the fourteenth century, but it lingered in the urban counties and duchies to the north-east.[28] This fact may or may not have affected suicide in particular, but it serves a useful caution against any assumption that town law was automatically avant-garde. It also serves as a background to the fact, which does relate to suicide, that the maltreatment of suicides' bodies lost none of its vigour in an urban setting. It was only confiscation, for suicide or anything else, that was frozen out of the law of the more independent towns. 'Ravage' apparently continued. Any expla-

[23] *The Rolls and Register of Bishop Oliver Sutton, 1280–1299*, ed. R. M. T. Hill, vol. 6 (Lincoln Record Society, vol. 64, 1969), 18–19.

[24] Knapp, *Nürnberger Kriminalrecht*, 118. Bartolus, *Comm. in Digestum*, bk 48, tit. 19, lex 41; *Opera* (Lyons, 1504), vol. 3, pt 2, fol. 202^{r}: 'per civitates in Italia sunt plura statuta [imposing double punishment for offences done in the piazza, for at night, or on market- or feast-day]'. Examples of such statues: *Statuti de Perugia dell'anno 1342*, ed. G. degli Azzi Vitelleschi, vol. 2 (Rome, 1916), pp. 90–3; and J. Kohler, *Das Strafrecht der italienischen Statuten von 12–16 Jh.* (Mannheim, 1897), 368–70.

[25] *Inf.* 13, 151.

[26] Listed and quoted by A. d'Addario, in *Enciclopedia Dantesca*, vol. 3 (Rome, 1971), 1052.

[27] e.g. *Statuti de Perugia* (see n. 24 above), vol. 2, p. 82.23–29: [bk 3, §63]; and a practical instance, for a man who killed a woman by stabbing and was sentenced to a big fine, five years' exile and the destruction of his 'bona', in Perugia, Archivio di stato, Podestà 115, fol. 5^{v}. In general: D. Waley, *The Italian City Republics* (London, 1969), 214; J. Larner, *Italy in the Age of Dante and Petrarch* (London, 1980), 111. The subject (in Italy) deserves a monograph.

[28] Timbal, 'Confiscation', ch. 2, pp. 78–9.

nation of the difference must clearly invoke anthropology as well as economics: it was as if townsmen conspired not to *take* each others' property, for judicial reasons, but left themselves free to *destroy* it if a miscreant had to be ostracized.

Confiscation

The mention of confiscation introduces a second stage of this investigation into the fate of a suicide's property. The modern idea of property is another that demands revision if applied to the medieval period. Throughout the Middle Ages, differently at different times, the idea of property was graded into an intricate system of obligations. They were so intricate that historians have commonly covered them all with a non-medieval term invented for the purpose, feudalism. In a chapter on suicide there can be no question of entering into all the intricacies. One, in particular, that I shall pass over with a mere mention, unworthy of its legal importance, is the distinction of movable and immovable. Confiscation, or some practical analogue like escheat, resumption, or forfeit (all technical ways in which a man could lose his property), could apply to immovable as well as movable property; but when it did, the law usually took the trouble to say so, at least after the period when serious judicial records begin.[29] In general, lawyers both executive and theoretical shied from the subject for a reason analogous to my own: that is, in a world criss-crossed by obligations respecting land, its confiscation for any other crime than political would provoke secondary consequences too far-reaching to make it worthwhile. Hence, surely, the significance of ravage, where it was practised, which punished the tenant's dwelling without radically infringing the landlord's rights.[30]

Instead of entering the web of confiscation law, therefore, progress can best be made by repeating the simple question I posed at the outset, and putting it to the evidence on confiscation. To whom was an act of suicide deemed to incur a debt, and why?

Kings as confiscators

Let us look for the answer in the manner of a police detective, and start, as a detective might, with appearances. The appearances are that the confiscation

[29] K. A. Geiger, 'Selbstmord im deutschen Recht', 15, finds the first substantial attempt to distinguish the two objects of confiscation in the *Sachsenspiegel* (mid-thirteenth century).

[30] Hence also its modification by a principle, by the rare documents that mention the matter, that any confiscation of immovables should go to the seigneur from whom they are held (like those St Maur vineyards [see p. 58]). Cf. Caillemer, *Études*, 29–32.

of a suicide's goods, in all the main areas here considered, belonged to the king. In other words, the debt was to the king, representative of the state. After all, the word confiscation itself derives from *fiscus*, the term for the Roman Emperor's *ex officio* treasury, and the idea of a 'fisc' passed early into barbarian usage as the king's public property. Although by the central Middle Ages the word 'confiscate' had already begun the expansionist career which has put it on to the lips of every modern schoolteacher, its strict meaning remained that of annexation to the public property of the royal or quasi-royal rulers. Its Roman birth stands out with special clarity when it is used in a Germanic form, as in the Flemish past participle *geconfiscqueert*.[31]

In the bulk of surviving legal records, of the kind we have been sifting through, the suicide's movable property is confiscated in this strict sense, that it is taken by the king for the public treasury. Does not the very existence of the English rolls derive largely from the king's right to the property of a felon, including the *felo de se*? The essence of all exchequer rolls was to be a financial account of this income. The treatises behind the rolls confirm this: Bracton, 'Britton', Fleta, Fitzherbert, and other legists, despite differences in accuracy on other matters, agree on the rule that the chattels of the *felo de se* are forfeit and it is the king who gets them.[32] In French records, the

[31] Cannaert, *Bydragen*, 281: 'en syn goed geconfisqueert'. (From the Customs of 'Cassel, Veurne, Antwerp etc.'). On the original Roman fisc; pp. 158–60 below.

[32] The inaccurate ones are Bracton and his disciples, whose attempt to apply Roman principles confuses their reading of English law: Bracton, *De legibus*, ed. G. E. Woodbine. Selden Soc., vol. 2 (1968), 423–4: 'Eodem modo quo quis feloniam facere poterit interficiendo alium, ita feloniam facere poterit interficiendo se ipsum, quae quidem felonia dicitur fieri de se ipso. Feloniam quidem facit de se ipso, ut si quis reus fuerit alicuius criminis ita quod captus fuerit pro morte hominis vel cum furto manifesto, vel cum utlagatus fuerit, vel in aliquo scelere et maleficio deprehensus, et metu criminis imminentis mortem sibi consciverit, heredem non habebit. . . . Si quis autem taedio vitae vel impatientia doloris alicuius se ipsum interfecerit, successorem habere poterit: talis non amittit hereditatem sed tantum bona mobilia, sed bona eius mobilia confiscentur.' Essentially the same text appears in the anonymous *Tractatus coronae* [1274–5], in *La corone pledee devant Justices*, ed. J. M. Kaye, Selden Soc., Suppl. series, 4 (1966), 34–5, with the modern editor's attempt to make sense of Bracton's text ibid., n. 3. The same inaccuracy appears in Fleta, bk 1, ch. 34 [vol. 2, Selden Soc., 72 (1955), 89.20–32]: 'Sicut autem quis feloniam facere poterit interficiendo alium, ita et se ipsum, nam si conscius criminis, qui recenter hominem interfecerit vel huiusmodi ubi oriuntur felonie, metu iudicii se ipsum interfecerit quoque modo, eius bona remanebunt fisco nec heredem habere debet, nisi dominum feodi. Set si quis tedio vite vel inpaciencia doloris alicuius hoc fecerit, filium heredem habere debet, set bona eius mobilia confiscentur. Ex alto eciam precipitati et submersi similiter heredes habebunt et ubi non committitur felonia, et similiter furiosi, frenetici, infantuli et mente capti et in acuta febri laborantes, quamvis se ipsos interfecerint, non tamen feloniam committunt nec hereditates forisfaciunt nec catalla, eo quod sensu carent et racione. Uxores tamen talium dotes debent optinere.' J. B. Post, 'Criminals and the Law in the Reign of Richard II', 218–20, understates in saying 'such nice distinctions were not observed so precisely in practice.' By contrast, a picture true to the rolls is given by Britton, bk 1, ch. 8 [ed. F. M. Nichols (Oxford, 1865), 39]: 'Et en cas, ou homme est feloun de sei meymes, soient les chateus jugez nostres cum chateus de feloun; le heritage nequedant remayne a les heirs enterement'; and by Fitzherbert, *La Graunde Abridgement* (1565), plea 362 [fol. 257^{v}], plea 426 [fol. 259^{v}]. The unanimity of these authorities on the

right of the crown to confiscations is less obvious, but many tell the same story even when, as in Letters of Remission, it is a question of waiving the right: for it is directly or indirectly the *crown*'s right that the Letters of Remission waive, and the right had to be there to start with. Again, French enactments and customaries confirm this impression in that they name the king first among possible recipients of a suicide's property. It is surely no accident that the earliest surviving French text prescribing punishment for suicide is a statement by royal commissioners, after a suicide inquest, that the goods are forfeit to the king.[33]

The impression that the claim to a suicide's goods was essentially regalian is corroborated further by a look at those duchies and counties which, towards the end of the Middle Ages, and outside the main monarchies, borrowed from Roman law the idea of 'principality', and behaved like kings in their own territories. Thus in the duchy of Brabant in the fifteenth century, a suicide's goods were sold by auction and the profit given to the duke.[34] The fifteenth-century customaries of Flemish towns under the quasi-royal duchy of Burgundy, like Antwerp and Cassel, use the Roman word 'confiscated' in the same context, with the same implication.[35] Many sixteenth-century German laws, heavily stamped as they are by the concept of 'principality', likewise attach to it the right to a suicide's goods. Thus in Tirol in 1526 it will be the prince who received the authorities' share.[36] The most princely of margraves of Brandenburg will likewise declare in 1514 his right, as prince, to the suicide's goods,[37] and when the right is renounced, it is again, as in France, by 'the prince's grace' or even by 'imperial privilege' that the renunciation is made.[38]

A first look at surviving evidence would therefore suggest that it was royal, princely, or even imperial status which conferred the right to a suicide's goods. That is certainly the appearance. The answer it would imply to our original question, 'to whom did suicide create a debt,' would be 'to the crown', that is, the crown as representative of the state, the suicide's territorial political society *en bloc*.

But is this correct? Police detectives cannot always trust appearances; and there are two reasons for mistrusting these. One is the chronological distribution of the sources. Surviving sources on our subject begin in earnest only in the thirteenth century, under the impulse of these rising monarchies and their

confiscation of chattels led Maitland to believe (mistakenly) that it was the punishment of confiscation that engendered the idea that suicide was felonious (Pollock and Maitland, *History of English Law*, vol. 2, 359 n. 5). See below, pp. 76–7.

[33] Caillemer, *Études*, 27–8; cf. Bayet, *Le suicide et la morale*, 437.
[34] Poullet, 'Hist. du droit pénal dans l'ancien duché de Brabant', 307.
[35] Above. n. 31. [36] Bernstein, *Bestrafung*, 14. [37] Ibid., 8–9.
[38] Ibid., 10 (Franconia, 1584); 13–14 (Henneberg, 1539).

emulators. So they are likely, by the very circumstances of their origin, to make most criminal justice seem royal in character, above all in a field like confiscation. That is a reason at least for caution. A more substantial consideration works in the same direction. Since it worked through differently in continental and in English kingship, I shall address these two areas separately, starting on the continent.

The continent: a princely paradox

There, Roman law was studied widely from the mid-twelfth century onwards, and from the thirteenth—just at the moment when our suicide records start growing—formed a structural element, more or less important according to local receptivity, in all continental monarchies and principalities. As a rule, the more a king's advisers had studied Roman law—whether in Bologna, or anywhere else—the more kingly their king became. Central authority, with its quasi-sacred *majestas*, was of the essence of Roman law. But remember, suicide is a maverick, a creator of paradox, and there is a paradox here, throwing doubt, even without other assistance, on our impression that confiscation for suicide was an essentially royal right. On the surface, and indeed some way below it, the drift of Roman suicide law was that suicide was not an offence. The paradox was, therefore, that the more any king or prince became like an 'emperor in his own kingdom', that is, the more he used Roman law to build him into a sovereign, the *less* place should there have been in his criminal justice for an offence of suicide. The same law that made a king more kingly should have made self-murder less of an offence.

This paradox was strong enough to have distorted the teaching of some of the best legal thinkers. Jean Boutillier's *Somme rurale* (1393–6) affects to state the Roman position on suicide—distinguishing the criminal kind from the innocent—as if it were contemporary French law, which we know it was not.[39] A few years earlier Bracton and his colleagues had done the same in England with less excuse—Roman law there being more of an import, foreign in every sense.[40] For the truth was that Roman law was pulling late medieval monarchies hard in opposite directions. They followed it only in one, the one more important to them, that is, centralization of power on the prince. As the Enlightenment approached, and especially in the eighteenth century, some monarchies would indeed go the whole way and introduce the Roman type of

[39] Timbal, 'Confiscation', ch. 1, p. 52, referring to *Somme rurale*, bk 1, title 39; bk 2, titles 15 and 40 [edition of Paris, 1603, pp. 274, 782, 869]. The seventeenth-century annotator's note on pp. 286–7, to the first of these passages, illustrates his keen consciousness of the tension between Roman and French law on this point.

[40] See n. 32.

enlightenment into their suicide laws too. Italian cities may have done that already in the Middle Ages. Monarchies did not. They effectively separated off suicide as the one matter on which to resist, consistently, the influence of the very law that gave power to their crown in other respects.

England: suicide as the felony *PAR EXCELLENCE*

On the continent, then, there is a reason to doubt whether the right to confiscate a suicide's goods was really as kingly as it appears *prima facie*. In England, without Roman law, there is a different reason for doubt. Nowhere does the confiscation of a suicide's chattels seem, on the surface, more intrinsically royal than in the Eyre rolls. Suicide was there in the rolls because it was a felony, and felony was a special class of offence against the crown. But let us be good detectives. Detectives run their fingers along a smooth surface to see if it hides any bumps, and if we do the same with this explanation we will feel three bumps, three peculiarities, that is, rendering suicide, *qua* felony, an odd man out. Odd men out make unreliable witnesses. But perhaps I should have called suicide an 'odd man *in*': for all three peculiarities made suicide not just *any* felony but in important respects the *only* felony, all the others having a trace of fraud in their appearance while suicide remained felony *par excellence*.

Let me begin with theory. The history of medieval criminal prosecution is that of the slow emergence of an idea that it was publicly initiated: not the k*in*, but the k*ing* (the etymologies are connected), should start prosecution for crime. But it is also clear that, right through the Middle Ages and beyond, the advances of the idea of crown protection were alloyed by a survival of older forms in practice. That is, the court rolls appear to be recording a purely public prosecution but details of the case reveal, on careful perusal, that private reaction to injuries, a vestige of the old horizontal justice of family vengeance, was still often playing its part in giving the prosecution its initiative and momentum. It is this fact which gives suicide its isolated status. Felony it might be. But it was the only pure instance of one in which there *was* no injured party (parricide being only part-way there because there was no injured *kin*—and in early Irish law suicide was bundled in as a kind of kin-slaying for that reason).[41] If anyone was to bestir himself to prosecute it *must*

[41] F. Kelly, *A Guide to Early Irish Law* (Dublin, 1988), 182–3. For the survival of the horizontal principle under late medieval crown prosecutions, see E. Powell, *Kingship, Law and Society* (Oxford, 1989), 66, 86 and *The Violent against Themselves*, 130. This position taken in this chapter about suicide *qua* felony must take account of the argument of R. Groot, 'When suicide became felony', *Journal of Legal History*, 21 (2000) (see p. v above), that the earliest eyre rolls (*c.*1200) suggest a phase of judicial uncertainty about how to treat suicide, and that it was only Judge Pateshull (from 1221) who got it firmly classified as felony, entailing confiscation. While

be the king. Apart from treason, when its time came, suicide was the only crime of which this was true. In respect of the source of its prosecution, then, suicide was the felony *par excellence*.

A more practical distinguishing mark attached to the manner of the prosecution, in two ways: the identification of the crime and the apprehension of the criminal. Let us recall the practical difficulties there were—and are—in the distinguishing of suicide from accidental death. Here suicide differed sharply from other homicide. Suicide was hard to distinguish, other homicide easy, in that you can usually tell if someone has been deliberately killed. Meanwhile the same contrast extended to the apprehension of the criminal but the other way round. In medieval English rolls the kill*er* usually escapes, the estimated clear-up rate of medieval crime coming out so low as to be scarcely credible to modern observers. The injured party, in other words—meaning the murder-victim's relations—was usually the only party the court actually had to deal with. By contrast the suicide not only offered no injured party to initiate proceedings, but presented the culprit, dead and ready for punishment, all wrapped up, to the legal officer. Once the crime of suicide was identified, the clear-up rate was a hundred per cent. Not only, therefore, was the suicide from one angle the only felony because it was the only kind whose prosecution invariably began from the crown; he was in practice, the only kind on whom the criminal law was likely to lay its hands.

That makes two peculiarities in the status of English suicide *qua* felony. Its solitary status is reflected, thirdly, in terminology. In the rolls, suicide is labelled *felonia de se* with a regularity only failing occasionally, and for some special reason. Other felonies have names of their own like *furtum* or *homicidium*. Only suicide keeps the name *felonia*. The expression *felonia de se* may, it is true, reflect the euphemizing tendency innate to suicide: no one wanted to invent a new word for it so the more generic term survived. Whatever people's motives were in using it, the generic term still, in the event, gave suicide a unique status among felonies.

This status can be defended in a theoretical way, but it is faintly possible that practical evidence survives for it, in a picture in a fourteenth- or fifteenth-century manuscript, reproduced in Plate 2. This illustrates a copy of Guillaume de Lorris's well-known *Romance of the Rose*. The poem opens with a description of allegorical pictures of virtues and vices, whose versions are often illuminated, illuminators depicting some of the allegories, with labels appropriate to each virtue or vice. One allegorical figure is clearly stab-

Dr Groot's article casts revealing light on Henry III's acquisitive judiciary, as indeed on other peculiarities of suicide in any pioneering legal environment, there can be no question of dating the substance of the English suicide–felony equation so late, if only—though not only—because Henry II's rolls prove that suicide already entailed confiscation then.

bing herself. She is labelled 'Felonye'. Too little is known of the origin of this manuscript to say whether its direct equation of felony and suicide reflected English practice directly, but it may well have done so indirectly.[42]

In England, then, as in continental monarchies drawing on Roman law, but in different respects, anomalies weaken the regalian explanation of a king's rights to a suicide's goods. Either that regalian explanation suffers from what I called the Roman paradox or, where it appeals to suicide as felony, it is just too good an 'explanation' to be the whole story. It is in fact not the whole story. To find the rest, in both England and on the continent, we must get in our time machine and move a century or two further back.

An answer: the king as lord

The political institutions of the late Middle Ages were a synthesis of many elements of different ages. This was as true of kingship as of other institutions. The king's titles, crowns, and rights came from a medley of sources, old and new, so that a king was many things at once, and the stronger in each function because he had the others. The crown's right to a suicide's goods was no exception. The right can be shown to have come, as a general rule, and by one route or another, from one of the crown's early medieval constituents, namely the king's status as that relatively humble political creature, the lord.

Medieval lordship has a large literature, fruit of both the variety of lordship and the obscurity of the evidence.[43] But both factors leave a term capable of definition, a term with the advantage of being, unlike 'feudal', genuinely medieval. From one angle, a definition of the term *dominus* could look the same as that of *rex*, since so-called regalian rights themselves formed an ingredient in most lordship (by a reverse process to that in which I am arguing lordly rights were subsumed into kingship). The reason for that was that the post-Carolingian landscape, too, had had elements of different ages, and *its* lordships consisted partly of powers usurped from the disintegrating monarchy left by Charlemagne. High justice was just one of these powers. Then too, a few great post-Carolingian lords, like the 'princes' of late medieval Germany, became virtual kings and courted the title. Conversely, some kings were barely more than lords, like the kings of Bohemia before the splintering of the German Empire in the thirteenth century, while the most successful

[42] British Library, MS Egerton 2022, fol. 5^{v}. The lines illustrated are 152–5. Cf. F. Lecoy, ed., *Le roman de la rose*, vol. 1 (Paris, 1965), p. 6; E. Langlois, *Les manuscrits du Roman de la Rose* (Lille and Paris, 1910), 144. For the iconography of suicide, below, p. 501. I do not have to repeat that the above view of the felonious character of suicide differs radically from that of Pollock and Maitland, *History of English Law*, vol. 2, p. 359 n. 5.

[43] T. N. Bisson, 'Medieval Lordship', *Speculum*, 70 (1995), 743–59, prints a bibliography.

kings, notably the French and English after the thirteenth century, were in part a special kind of lord; other things too, but *inter alia* lords. It can be shown that it was specifically from this latter element in their authority that the the kings' claim on the goods of suicides came. It was in essence a *lordly* right.

How the right passed from lordly to kingly hands will throw a lot of light, I believe, on the origin and nature of many late medieval punishments for suicide. The question is therefore worth approaching analytically, through reflection on the similarities, and on the differences, of the two statuses, king and lord.

Despite the partial fusion of the two concepts, the centres of lordship and kingship remained different. The most obvious difference was one of scale. The lord ruled a smaller area and fewer people, and for the nature of the lord's authority this had three consequences. The authority was firstly more personal. A smaller economic pyramid could not furnish its ruler with those learned advisers who, at higher levels of government, came to conceive royal power as an abstraction, to be served just the same if the king was away, mad, or dead. A lord's absence, by contrast, left a gap, with emotional consequences different in kind from the more bureaucratic inconveniences of a king's absence later. One consequence was the ready payment of a lord's ransom; you owed no less to your friend and protector, if he was captured and ransom was demanded. Another, if literary specialists are to be believed, in the special circumstances of some southern French lordships where the wife was left in charge, was troubador poetry.[44]

The personal character of a lord's authority was the first consequence of its small scale. A second was that a lord's legal power was closely tied to his economic strength. The owner of a manor was also its judge, in crime and other causes. A separation of powers, with the royal erosion of 'feudal' justice, came much later. When the English peasantry rose against the remains of this system in 1381 they knew, and the lords knew, that the manorial fusion of ownership and jurisdiction was an archaism. It was an archaism characteristic of the lords' earlier authority, round which a new, royally governed world was growing.

This points to the third consequence of the local character of lordship. Lordship fitted the relatively static, non-urban society of the early Middle Ages, and where it lasted into the late Middle Ages, as it did in pockets within royal justice in England, France, and Germany, it enshrined earlier ways of thought. In the legal treatment of suicide, this fact had a fundamental consequence, for among what I have just called the earlier ways of thought was what we would see today as a fusion of religion and politics. It is hard to char-

[44] R. Nelli, *L'érotique des troubadours* (Toulouse, 1963), 277–321.

acterize this fusion in a few words. To contemporaries it scarcely seemed a fusion, it was more the way the world was. But it can be illustrated by examples. The judicial ordeal, with its supernatural assumptions and practical function, is one such illustration: the ordeal has been thought—though the matter is near impossible to prove—to have been formulated by lordship in the early Carolingian period as a means of enforcing a lord's criminal justice.[45] Another example is excommunication. Excommunication was theoretically an ecclesiastical sentence, which in the early Middle Ages usually took the form of a curse invoking supernatural sanction. But it was administered for offences which today we would judge to be a mixture of ecclesiastical and secular, and administered in close cooperation with secular authorities. In other words, kings could act together with bishops in an excommunication, and the sentence was for a long time used to punish apparently secular offences like parricide and arson.[46] A third illustration is the Crusade. It was just this compound of religion and politics which exploded onto Palestine in 1096 and the following decades, though the fusion was already breaking up. For a large part of the significance of the pontificate of Gregory VII (1073–85) was precisely this, his separation of the ecclesiastical from the lay authority, in a political-cultural earthquake that made almost everything afterwards different from all before.

Everything different except, that is (if the present hypothesis is right), punishments for suicide. I have identified three ways in which lordship differed from kingship, so let us now see how these three peculiarities affected a lord's attitude to offences in his territory, and hence how they affected suicide. The personal nature of lordship, first, made suicide an affront. Its economic nature, second, made suicide theft. Thirdly, the religious aspect of lordship made the lord a natural enforcer of the Church's condemnations: if the Church disapproved, it was for the lord to punish. All three factors combined to condemn both the body and the property of the suicide, for at this stage, both body and property belonged to the lord.[47] A lord with High Justice—even, indeed, sometimes a lord with only Low Justice[48]—could execute a

[45] The thesis of R. Bartlett, *Trial by Fire and Water* (Oxford, 1986), esp. 36–7, 60.

[46] Kings and bishops together: J. Leclercq, 'L'interdict et l'excommunication d'après les lettres de Fulbert de Chartres', *Revue historique de droit français et étranger*, 4e série, 22 (1944), 167–77. Generalized curse: L. K. Little, 'La morphologie des malédictions monastiques', *Annales E.S.C.*, 34 (1979), 43–60. The above remarks on excommunication reflect thoughts set out in my 'Excommunication and Conscience in the Middle Ages', John Coffin Memorial Lecture (University of London, 1991).

[47] A circumstance further illustrated by the precarious character of a peasant's cash savings (when such things began), which could be summarily confiscated by a lord, and no one commented; G. Duby, *La société dans la région mâconnaise au xiie et xiiie siècles* (Paris, 1953), 359; cf. 513–14.

[48] Timbal, 'Confiscation', ch. 3, p. 35.

dependant and dispose of his body. Phrases like *il perd le corps et li sien* would last into the late Middle Ages but were born earlier, as part of the natural language of the *seigneur*. These considerations explain why, although the bulk of our evidence comes from a time when lordship itself was obsolete or obsolescent in the face of kings, princes, and towns, suicide law can be identified as a vestige, a throwback, bearing the print of an origin in lordly justice. This principle can be seen in operation in each of the three main monarchies so far considered, in its own way in each.

Old lordship in three monarchies

Germany

On the confiscation of a suicide's property, late medieval German law is a patchwork. Conservative and modern oscillate in sharp contrasts, the modern—especially in the form of Roman law—entering with all the more sharpness because the opposition was archaic, hence the patchwork. Again and again we find the old law on suicide explicitly associated with *Herrschaft* (German for lordship), the prevalence of *Herrschaft* law reflecting, once again, Germany's lack of an effective centralizing monarchy after *c.*1200, of a kind that could have reformed High Justice. Those Rügen customs exemplify this archaism, their spirit close to that of the earliest known Germanic laws, and they include, among punishments for suicide, confiscation to the *Herschop*. Confiscation specifically to the lord also survived in other areas covered by sixteenth-century law books purporting to record old practice, as in the Dithmarschen *Landrecht*, the Neumünster customs, and even in the Hohenzollern Margrave's Brandenburg constitutions of 1516 (before they became fully princely in this respect). Further south, the *Herr* would also, long after the Middle Ages, be specified as the beneficiary where a suicide's goods were confiscated, as in a Bavarian *Landfreiheitserklärung* (Statement of Regional Liberties) of 1516.[49]

Meanwhile the other patches in the German patchwork followed new rules. Many of these rules, in sharp contrast to *Herrschaft* law, were of pure, brand-new Roman inspiration. A casebook from Ingelheim, on the Rhine near Mainz, shows this inspiration in a decision of 1415. In one case in it, a higher court has imposed on a lower the rule that suicide as such can have no effect on succession. The lower court, clearly representing the old law, had assumed that suicide *did* affect succession.[50] There we see the patchwork effect on the vertical plane, the higher and lower courts having diametrically opposite

[49] T. H. Gadebusch, *Wendisch-Rügianischer Landgebrauch* (1777), 320; Bernstein, *Bestrafung*, 5–6, 8–9.

[50] *The Violent against Themselves*, 234–5.

views of the relevance of suicide to property law. The same influence, with the same lesson, is clear in one of the judgements of the Leipzig municipal court (*Schöffensprüche*), written down in 1523 but gathering material from the previous century and a half. One *Spruch* said the property of a thief who had hanged himself in prison was confiscated on the grounds that his act cheated the court of a confiscation which would otherwise have been incurred by his original crime—an unmistakably Roman line of reasoning,[51] and one quite distinct, we should observe, from the towns' general distaste for all confiscation.[52] But in respect of suicide the two currents, Roman and urban, worked in the same direction, and both help accentuate the difference—the oscillation—between old and new squares of the patchwork.

The identification of this pattern will render instructive a comparison of our present findings with those which concerned treatment of a suicide's body in Chapter 1. In respect of confiscation, we have just seen, German law was geographically a patchwork between areas of old *Herrschaft* law and those of Roman law, with its exculpation of suicide. This pattern contrasts with that yielded by customs for disposing of the corpse. There, the pattern was more uniform, its only distinctions being broadly geographical, and reflecting topology or ethnic factors rather than jurisdiction. Indeed at the lowest level of all, that of the refusal of formal burial to suicides, there may have been no variations at all. The patchwork effect in respect of confiscation therefore reflects the higher receptivity of customs concerning property to the articulate legal influences familiar to institutional history. To put it another way, we are confronted with two maps: one, of customs concerning the body, responds largely to ethnic influences, the other, of those concerning the property, to legal ones; so to speak, one to lore, the other to law.

France

Where German law in this particular presents a patchwork, that of France suggests a continuous web made up of old and new threads. This was not the case with judicial records which, I argued in the previous volume, split sharply between the obscure world of local and seigneurial courts on one hand, and a well-recorded royal appellate justice on the other. But records, and the substantive law they contain, are two different things, and the substantive law was graduated. There, in France, old and new threads met and combined, creating those innumerable points of tension that exercised the jurists. The graduated character of French law corresponded to the nature of the crown's

[51] G. Kisch, §205, *Schöffenspruchsammlung* (Leipzig, 1919), 178; 'Was derselb dieb nach ime gelassen hette, wuran das were, das were er dem gericht verfallen und moet das an sein erben nicht pringen, sunder ir underzicht euch des gerichts wegen pillich.'

[52] Cf. Timbal, 'Confiscation', ch. 1, pp. 52, 59; ch. 2, p. 68 n. 2.

advance. Royal courts, whether of *baillis* or Parlement, professed only to be executing laws practised immemorially in local communities and enforced by their lords. That sort of claim is rarely true in practice, since the interpretation of law changes it, so long as the interpretations are repeated often enough in one direction; and if it was crown lawyers who did the interpreting, the law was becoming, by that very fact, more royal. The claim was nevertheless sufficiently true to establish a kind of glissade, a smooth path of ascent by which seigneurial law could pass into royal and enjoy its sanction. In substantive law, therefore, the closely knit web of old and new survived.

The effect of these facts on confiscation for suicide has been studied in some detail by Albert Bayet and Pierre Timbal, each from his own angle. Here, let me repeat, we are answering only one question: to whom was suicide understood as incurring a debt? The findings of Bayet and Timbal will help us here, with glosses added where necessary, and I shall begin by giving one example of the kind of graduated change just referred to, to illustrate the glissade effect and to serve a more particular purpose. Confiscations, a regular part of French law from Carolingian times, and applied both as punishments on their own and as corollaries of others (like death for treason), were usually agreed to go to the justiciar who made them. The judge, in other words, got the property. No doubt this fact helped inspire a justiciar with zeal, and that was partly why it survived. But who should the justiciar be? In so far as society was static, he would be a man's own *seigneur*, commonly referred to in treatises by a range of terms like 'comte', 'chastellain', or 'baron'. But the more geographically mobile a society became the more doubt would be cast on that rule. Suicide is only one of a number of examples, but it illustrates the difficulty adequately. If a man left his native jurisdiction and killed himself in another, which justiciar, this or that, 'home' or 'away', should get his goods? From the thirteenth century judicial tugs-of-war on this question reveal a shift in thinking. At the beginning an old maxim still held that 'chattels follow the person' (*mobilia sequuntur personam*), in other words, that the justiciar of a person has jurisdiction also over his movable goods, wherever they are. (The adage I quoted earlier, *mobilia ossibus inhaerent*, meant the same). But from the middle of the thirteenth century a new answer appears and gradually becomes the norm, which is that, increasingly, and especially in lay courts, it is the justiciar of the *place* of the crime, not of the criminal, who got the forfeitures, a change which applied to suicide among other crimes.[53] The significance of this change, and why it has been worth picking on as an example of the gradual character of changes in French criminal law, is that it encapsulates the shift from a personal to a territorial concept of justice, a shift which itself

[53] Timbal, 'Confiscation', ch. 2, pp. 62–5.

forms part of a wider one which, from the same period, would haltingly give birth to the French territorial state, a state defined by boundaries not by personal bonds. In justice, as in other fields, it is not too much to say that the shift was a prerequisite for the emergence of the crown as the most important justiciar.

The two features I have identified, the glissade between seigneurial and royal judicial principles, and the presence on it of an increasingly territorial rather than personal approach to crime, will prepare the ground for the hypothesis which will conclude this chapter. Previous scholars who have reflected on medieval French suicide punishments have had to confront the problem of their origin,[54] whose difficulty derives from the apparent disjunction between their primitive character and the absence of any early evidence for them. Dark-age sources witness to the dragging and mutilation of corpses and the confiscation of property for other crimes; but to neither for suicide. Dark-age records being as sparse as they are (I am treating the 'dark age' as ending at some time soon after the millennium), silence does not prove suicide was not punished in this way, but the silence does remain eerily complete, to say nothing of the occasional hints that such punishment did *not* happen, like the testimony Christian of Stavelot quoted in the last chapter.[55]

To meet this problem, Albert Bayet proposed an elegant hypothesis, for which I hope the foregoing reflections on French confiscation law have prepared a welcome. It is—to use a shared formulation that combines both versions of the hypothesis—that the suicide punishments that abound in the records had a seigneurial origin, at a time, possibly in the late tenth or early eleventh century, when a seigneur had close judicial, economic, and personal rule over his dependants, and when his wealth was measured more by his tally of dependants than by extent of land. Like the suicide of a slave in pre-imperial Rome, that of a serf or dependant forcibly deprived his lord of property. So an example must be set, as for other kinds of robbery. That the crime of suicide was made a subdivision of homicide, and punished appropriately, may reflect also the close association of clerical and secular justice typical of the same period. Penitentials, which may have been used at this period as an instrument of what we would call secular justice, authorized the prohibition of prayers and normal burial to a suicide, even quoting St Augustine's condemnation of suicide *qua* a form of homicide.[56] At no period, therefore, would it have been easier for these provisions to have been translated into the rough judicial methods common for a lord with his dependants.

That hypothesis cannot be proved. Evidence is missing for the right period. But it fits with everything else we know about legal development in Capetian

[54] Bayet, *Le suicide et la morale*, 501–10.
[55] Above, pp. 36–7. [56] Below, p. 271.

France and, if accepted, would characterize the suicide punishments appearing in sources after 1250 as judicial material of intermediate age: as a seigneurial inheritance, that is to say, digested into royal law and modified only, as opportunity offered, by the modernizing tendencies to be witnessed at work in the appellate Court of Requests, quoted in the previous volume.

That all applies to France. It leaves only the question of English felony, and how suicide came to represent it *par excellence*.

England

In England the notion of felony appears after the Norman Conquest of 1066 as one inseparably associated with the king's criminal justice, jealous and victorious rival of such 'feudal' justice as had come over from Normandy. What possible connection, then, can felony have with lordship? The answer again lies in its genesis. Like all stories of genesis this one is obscure, but we can rely for its illumination here on hypotheses put forward by Patrick Wormald. These take the story back to King Alfred, at the end of the ninth century.[57] Alfred pioneered several devices for keeping England at peace, from its own residents as well as from invaders. One such was the use of an oath to be taken by every Englishman directly to the king. An oath of this kind was a normal element of Old English lordship, and expressed what I called just now its personal element. What was new in Alfred's demand was the application of the oath to kingship. Alfred used it to underpin law and order. An oath could not bind those who took it to the kind of service entailed by an oath to a lord, so in many respects the personal element was fictional. But an Englishman's oath did oblige him, by personal fealty to the king, and to God who sanctioned the oaths, to keep a handful of laws fundamental to social peace, including those outlawing some kinds of homicide.

Among many recommendations for this view is that it explains why the word *felo*, taken from Carolingian law with the meaning of 'traitor', followed different paths in England and France. In France it kept the meaning of betrayal, in the manner of Judas or Ganelon (the traitor in *The Song of Roland*). In England, by contrast, *felonie* came by this route to mean a serious crime. This was because—if this explanation holds—the felon had betrayed the king, to whom he had taken a sacred oath. So he *was* a traitor. Alfred's peace was specifically Christian, as was his concept of the England over which he ruled (a fact now generally recognized by those who have searched for the origin of English national self-consciousness). Christianity, that is to say, was part of the definition of the very *Angli* from whom Alfred extracted his oath—as yet another instance of the fusion of secular and religious concepts

[57] Patrick Wormald, *The Making of English Law*, vol. 2 (forthcoming), ch. 6. I am indebted to Mr Wormald for allowing me to read a draft of this chapter.

at this period.[58] In judging what was fundamental to the peace of his kingdom, Alfred therefore paid more attention to canon law than his Norman successors would have done if it had been they, as we can be fairly sure it was not, who invented the idea of felony; and if Alfred's peace was Christian, breaches of it were the opposite, anti-Christian. A breach of the peace, at that period more than at any other, was treachery not only to a human lord but to Christ.

The felony of post-Conquest English law thus fits comfortably, despite the peculiarities of each context, into the same conceptual matrix as we found for the punishment of suicide in Germany and France. It reflects the threefold bond—personal, economic, and religious—normal between an early medieval lord and his man, a threefold bond which was absorbed into royal justice to become indistinguishable from its more modern accoutrements in the period from which the records come—that is, in and after the reigns of Henry III and St Louis. The reasons the threefold bond survived, when royal justice was capable of reinterpreting laws as it got stronger, were partly financial, partly political—punishments being *inter alia* a symbol of jurisdiction—and partly religious. Once the punishments were established, what reason was there to modify them?

That question is partly rhetorical but not wholly. For as reason in both senses—logical ratiocination and social moderation—grew more articulate in the twelfth and subsequent centuries, grounds were discovered why the punishments should be modified. A review of these grounds, as read in the acts and words of lawyers, will close this chapter.

Modifications

Both the ravaging and the confiscation of a suicide's property admitted degree. Houses and property can be divided, so it is possible to destroy or confiscate a fraction.[59] The very principle of confiscation could also be varied, since property can be removed partly or temporarily, taken and released for a fee, under conditions, and so on. Confiscation laws therefore form a fine sensor of the principles brought to bear on a case of suicide. I said earlier that confiscation for suicide did not thrive in towns, especially not in towns which had effectively decriminalized suicide, as in Italy. But it will be useful now to

[58] H. E. J. Cowdrey, 'Bede and the English People', in *Journal of Religious History*, 11 (1981), 501–23, reprinted in the author's collected essays, *Popes, Monks and Crusaders* (London, 1984); N. Banton, 'Monastic Reform and the Unification of Tenth-Century England', in S. Mews, ed., *Religion and National Identity*. Studies in Church History, 18 (Oxford, 1982), 71–85.

[59] Fractions: Timbal, 'Confiscation', ch. 1, pp. 56 n. 6, 58 n. 2, 61 n. 8; ch. 2, p. 62 n. 8. Heirs retain part: ch 4, p. 54; Letters of Remission restore part, ch. 3, p. 38 n. 9.

look at two more general principles, in and out of towns, by which even justiciars who saw themselves as normally entitled to confiscation for self-murder, did so with modified or no effect. The first of these principles was the interest of the bereaved family.

The family

It will be clear by now that the family of a suicide suffered an even bigger set of shocks in the Middle Ages than it would now. To the shock of bereavement, and that of the reason for it, was added the disgrace of non-burial and perhaps of atrocious ritual; and on top of all that the dead person's property, perhaps including his house, was destroyed or taken by the justiciar. Suicide was not the only offence which could bring such family catastrophe: murderers, traitors, heretics, and many other types of offender could at various times and places damage their families in a similar way. But the suicide was once again a special case. He was the only criminal to bring punishment *exclusively* on his family.

This was an anomaly the lawyers came to notice and worry about. That they had not noticed it at first may reflect another of the differences of mentality between then and now. Students of the Old Testament will recall that in the book of Numbers, two persons guilty of sacrilege, Dathan and Abiram, are swallowed up by the earth as a punishment, but not only that; with them are swallowed their wives, children, servants, oxen and asses.[60] That notion of joint family responsibility would already be under attack in Old Testament times, but it lingered, survived the times of the New Testament and the Roman Empire, and struck up an alliance with features in early medieval law, whereby a family was jointly guilty of the crime of one member. The horizontal justice of blood-feuds implied that a man's kin were answerable for his murders, and the idea was present even in the vertical justice that came down from the top: as in the disinheritance even of the grandchildren of a heretic.[61] So we should not take for granted that it was thought unjust for a family to suffer for the suicide of one of its members.

In a later chapter I shall draw attention to yet another of these differences in mentality, and the development it underwent in the late Middle Ages, namely the association of guilt with the consequence rather than the intention of an act. Related to that development, though distinct, was the recogni-

[60] Numbers 16: 32–3: the case of Dathan and Abiram was commonly invoked in early medieval excommunications (see n. 46 above). Cf. Ezekiel 18 for another doctrine.

[61] Lea, *History of the Inquisition*, bk 1, ch. 12; (1908 edn), vol. 1, 498. Cf. H. Maisonneuve, *Études sur les origines de l'inquisition*, 2nd edn (Paris, 1960), 337–8. For the excommunication of miscreants' families, see also Gratian, *Decretum*, pt 2, Causa 24, quaestio 3; ed. Friedberg, *Corpus iuris canonici*, vol. 1, cols 98–1006.

tion that it was the individual rather than the family who should be punished for a crime. Moral theology, with its emphasis on conscience and sacramental confession, contributed to the change, but was only one contributor: there were legal and political tributaries too. Learned lawyers, for their part, had read how the classical Roman defendant could not be permitted to 'cheat the fisc' by 'his last act', by committing suicide, and they were ready to apply the same idea to a family. Why, they asked, should a man be allowed, by his last deed, to expropriate his wife and children?[62] Politically, the same practical sense which came to baulk at the destruction of houses knew that no one's interest was actually served by the capricious multiplication of destitute families, and if this was true of justiciars, with their moderated confiscations of mere fractions, it was doubly true in towns, where people were supposed to look after themselves, rather than be dependent. It was almost certainly, I suspect, for this reason, more than through the mere influence of Roman law, that town governments were so reluctant to use confiscation as a punishment.

Beyond these factors, and partly expressing them, was the matter of family law. What *rights* did a wife have in her husband's property? Did she have property of her own? And did, say, a spouse's half-right in a house, or in livestock, limit the court's power to confiscate it? It was questions like these that made the law of confiscation, occasioned by suicide or anything else, into a dense undergrowth of lawyers' preferences. The tensions between their preferences, for this or that principle, often led out into a manifest compromise: like modifications not in the sentence of confiscation but in its execution (in that execution might be delayed until after a spouse's death, or applied for only one year). The question of the rights of wives and children, and for that matter husbands, in the diverse ambits of medieval law would form another suitable subject for specialized monographs,[63] and in respect of suicide, at least, safe generalization for Europe as a whole lies only in the acknowledgement of variety. Thus in Germany, although the early thirteenth-century *Sachsenspiegel* protects a suicide's heirs in language which may suggest an earlier practice to the contrary, most reports of suicide that mention the matter—nearly all urban and all from the fourteenth century and later—conspicuously avoid confiscation at the heirs' expense.[64] Meanwhile French

[62] P. Viollet, ed., 'Les coutumiers de Normandie' in *Histoire littéraire de la France*, vol. 33 (1906), 127 and 133, quoting a fifteenth-century glossator on a thirteenth-century customary: 'car le mari ne peut en sa derraine volenté priver par voie quelconque sa femme ne ses enfans . . . qu'ils n'aient leur part en ses meubles'. Cf. Bayet, *Le suicide et la morale*, 439.

[63] Examples of the assignment of different fractions of a suicide's goods to the family are given from French customaries by Garrisson, *Le suicide*, 122–3, cf. Bayet, *Le suicide et la morale*, 437–9 and Bourquelot, 'Recherches', pt 2, p. 262.

[64] *Sachsenspiegel*, ed. C. von Schwerin (Stuttgart, 1982), bk 2, *c.*30 [= *c.*31 in the third edition

law is again, in general, the strictest. The so-called *Établissements de s. Louis* decree expressly of a suicide that 'si meuble seroient au baron. Et de la fame ausi' (his chattels go to the justiciar and so do his wife's), as if the second clause had been added to settle doubts in favour of rigour; and there is much else in the same sense.[65] The modification here was of the kind administered by the Paris Parlement, which made up for some of this archaic rigour by leniency when it could get its hands on a case through Letters of Remission.[66] English law likewise seems relentlessly strict, but its exactions on a family were regularly commuted into money and even then, occasionally, we can find a phrase in the rolls like 'nothing from her chattels as she had a husband'; as if, behind the court rolls, even the toughest royal justices were capable of drawing back from the needless manufacture of beggars.[67]

The Church

The Church is from one angle the last place to look for a modification of a justiciar's right to confiscate a suicide's property. Those French abbey registers showed how jealous dark-age ecclesiastical foundations could be of their threatened jurisdictions, and hence all the stricter in enacting the old law.[68] Nor was their stance confined to France or to abbeys. In England we find several vivid entries in the rolls which make much the same point. I hope it will not take us out of our way to pause to look at two English cases. One tells of a tug-of-war in 1279 over the furniture of a wife who had hanged herself near Bolton in Lancashire. The archdiocese of York claimed the wife's chattels on the grounds of York's old lordship, so that archiepiscopal bailiffs came to seize the furniture and utensils and, in the face of a royal counter-claim, spirited them away and hid them. Not until the ecclesiastical bailiffs were themselves subjected to arrest and sequestration did they hand the chattels over to the king, who promptly returned them to the bereaved husband.[69] There, it was the king, not the bishop, who showed mercy to the widower.

by C. G. Homeyer (Berlin, 1863), 260] §1; n.76: 'wer von gerichtes halben sinen lip verlusit *adir tut her im selber den tot*, sin neste mag nimt sin erbe.' The words I have put between asterisks are only in some MSS. My reading of this provision differs slightly from that of Kühnel, 'Zum Selbstmord', 476. For concrete cases: Kriegk, *Frankfurt*, 549, n. 186; J. Schnell, *Rechtsquellen in Basel*, vol. 1 (Basle, 1856), 228; cf. Kühnel, 'Zum Selbstmord', 480, 484.

[65] *Établissements de saint Louis*, §92 [ed. Viollet, as in n. 15, vol. 2, p. 150]; cf. the Bordeaux *Livres des coutumes*, §41; ed. H. Barchausen, Archives Municipales de Bordeaux, vol. 5 (Bordeaux, 1890), pp. 46–7: 'Costuma et ussatge es que tot home a fempna qui s'gita o se met en desperacion . . . que/[p. 47] nulha franquesa de terra no los vau, antz pert lo cors et los bens'; Timbal, 'Confiscation', ch. 4, pp. 45–54.

[66] See *The Violent against Themselves*, 207–27.

[67] London, PRO, JUST/1/186 m41d (Eyre of 1281/2; 'Gunnild').

[68] *The Violent against Themselves*, 139–41.

[69] London, PRO, KB 27/33 m5. On the archbishop's jurisdiction at this period, J. B. Post,

At that date, the king's law was the more up-to-date in this respect, and the future lay with it, for by then very few English bishops, if some continental ones, would have dared to defend such old judicial rights—since they would have known they would have been unlikely to succeed unless the suicide was clerical, when the episcopal claim might be a degree stronger. That claim was still in doubt in a second case, in early 1285, when a priest killed himself in the diocese of Winchester. The bishop of Winchester's bailiffs took the dead man's chattels and a complaint came not from the crown, this time, but from another bishop, since the dead man had only been a visitor in the Winchester diocese, and in pouncing on his chattels the bishop of Winchester followed the new principle that it was the place, rather than the person, that determined jurisdiction. The bishop of Bath and Wells (from whose diocese the dead priest originated) upheld the old rule, *mobilia ossa sequuntur*, and wrote politely for the chattels to be handed over. So his brother of Winchester duly consulted his lawyers, who told him *both* claims were probably out-of-date, admitting—the confusion is typical of all contemporary law in the matter—that:

> Different experts in English law and custom think differently on the matter. Some say the goods of such a man belong to the church or to the church court, others to the temporal lord [that is, the king].[70]

Could the bishop of Bath and Wells 'with his characteristic forbearance' (his brother of Winchester diplomatically asked) suspend his claim until the question had been settled by Parliament? Three months later we learn from a chronicle that Edward I's Westminster Parliament 'established very many new laws'. Bishops attended Parliament and we can imagine what 'new law' this Parliament may have established against the bishops' interest, on the goods of priestly suicides. For neither the rolls after this date, nor any bishop's register, hints that anyone, expert or no, again dared maintain an English bishop's claim to the goods of a clerical suicide *qua* cleric.[71]

Although the dates and decisions differ from monarchy to monarchy the same fundamental legal geometry obtained everywhere. It shows how the Church, in the sense of an old seigneurial institution, had as much share as

'Local jurisdictions and judgement of death in later medieval England', *Criminal Justice History*, 4 (1983), 1–21, on p. 6; and N. D. Hurnard, 'Anglo-Norman franchises', *Eng. Hist. Rev.*, 64 (1949), 289–327 and 433–60; on pp. 452–9.

[70] *Registrum Johannis de Pontissara, episcopi Wyntoniensis A.D. 1232–1304*, ed. C. Deeds, vol. 1. Canterbury and York Society, 19 (1915), 298–9. The Parliament: F. M. Powicke, *The Thirteenth Century*, 2nd edn (Oxford, 1962), 369.

[71] Though the regalian claim to confiscations from all felons, including suicides, might occasionally be used as a temporary bribe to bishops if the monarchy was desperate for allies, as it was under Henry VI; *Calendar of Close Rolls*, 21–4 Henry VI, p. 55 [12 Feb. 1446].

anyone else in the principle of confiscation, if decreasingly in its successful vindication. Behind all these claims remained the matter of moral high ground. While some churches often lost this ground, as at Bolton in that case of 1279, moral high ground remained the Church's natural inheritance. This accounts for two quite different factors which could direct a suicide's goods churchwards.

One was intestacy. In the period of most of our records some lawyers said the Church was heir to intestates and went on to argue that, since the act of suicide invalidated a will, the Church should inherit. It is not easy to envisage this principle getting far in later Plantagenet England, and on the continent we know of it only as a subject of doubt. But it certainly got so far. The *Grand Coutumier* of Normandy, composed in the middle of the thirteenth century, said the goods of those who died by suicide, excommunicate, or unconfessed, should go to the duke rather than the Church on the grounds that the Church 'had given no help to their souls', an argument which a fifteenth-century glossator of the same text (putting it in the mouth of certain commentators on the question whether a suicide priest's chattels went to the bishop) rendered more specific by adding 'that the church says no prayers for such a person, who is rather rejected by the church altogether'. Here again, suicide was a maverick. Norman jurists appropriately wavered.[72] Meanwhile their colleagues elsewhere in France and Italy fared no better, though they too were in tune with their times, on grounds they could not quite define, in siding on this issue with royal against episcopal justice.[73]

The Norman court's excuse demonstrates that *if* the Church had 'done something' for the suicide's soul its claim to the chattels might have been allowed, and this fact reflects a general understanding that suicide, whatever residual injury it might constitute to a lord, was also a spiritual wrong, and that spiritual wrongs were best atoned for by a gift to the Church. This understanding was more generally expressed in an irrepressible, if painfully incoherent, view that a suicide's goods were legitimately directed to pious causes. It was not that this belief interfered with the mechanisms of seigneurial con-

[72] Viollet, 'Les coutumiers de Normandie' (see n. 62), 123 (quoting chap. 20 of the *Grand Coutumier*): 'nec Ecclesia in eis aliquid poterit reclamare, cum eorum nullum subsidium prestiterit animabus'; and 128: 'puisque l'Église ne fait pour lui aucune prière, mais est du tout mis hors de l'Église. Et les autres dient le contraire.' Wavering: 126–7. Cf. Pollock and Maitland, *Hist. of English Law*, vol. 2, p. 359, n. 5.

[73] Peter of Belleperche, *Commentarium in Codicem*, bk 6, tit. 22, §2; (Paris, 1519), fol. 274^{r}; quoted with approval by Cino of Pistoia, *Comm. in Codicem*, bk 6, rubric 22, §7; (Frankfurt, 1578), fol. 364^{rb}; though it is fair to point out that in the early sixteenth century, Igneus, *Comm. in tit. Sill.*, bk 1, §78 (Lyons and Orleans, 1539), fol. 99^{v}, would still be arguing the crown's case against an allegedly *diutinus usus* by which Norman bishops took a suicide's goods *qua* intestate. Igneus's case suffers from the revealing complication that by Roman law (clearly of more significance to Igneus than to the more conservative bishops) a suicide's will is not automatically invalid, in §§109–18 [fols 102^{v}–103^{v}].

fiscation, only that it remained in the background like a principle of equity, brought in, even a little illogically, in cases of doubt. Thus it can be seen hiding behind two English cases, when suicide had been suspected but was unproven, and yet the chattels *still* did not go to the dead person's heirs, but went for alms. In 1263 a Warwickshire knight was found to have been murdered by his servants although he had previously been accounted a suicide and his chattels confiscated. The chattels were now to be returned to his heirs 'to bestow in alms and distribute for the soul of the deceased'.[74] Again, in 1321, a London woman suicide whose chattels had been taken by the king was found by an Eyre to have been insane at the time. Her chattels were again not given to her heirs but 'in alms for her soul'.[75]

Why this principle should have been attended by a certain illogicality is easy to explain, since there was a deep-seated theoretical difficulty. Normally, the purpose of testamentary almsgiving was held to be the benefit of the testator's soul in Purgatory. But the suicide was in Hell. Nothing was more certain. Quite logically, therefore, some jurists said a suicide could not validly leave his goods in alms for pious purposes.[76] It was an affront to the pious purposes to suggest it could do the benefactor's soul any good. Another school, meanwhile, held the view diametrically opposed. It said, not just that a suicide could leave goods for pious purposes, but that these were the only purposes for which a suicide could validly leave them. This latter view, which constitutes one of many fissures we shall be discovering in the theory of the eternal damnation of suicides, won the support of the famous Bartolo of Sassoferrato (†1357), and Bartolo's authority helped recommend this humane if illogical principle to some legislatures. Thus a *Landesgerichtsordnung* for Lower Austria of 1514, as if quoting Bartolo, will say a suicide may leave money to pious causes and to no one else.[77] We are witness to an instructive turnaround. The law was now giving back to the bishop *qua* spiritual authority the claim it had wrested from him *qua* lord. In England, Tudor practice would complete the change. Heir to Plantagenet victories over lordly bishops, the Tudor crown would first confiscate the suicide's goods against all comers (including bishops) and then promptly hand them over to the Queen's Almoner. This official was usually himself a bishop, but one now carefully penned into the moral high ground.[78]

[74] *Calendar of Close Rolls, 1261–4*, 237.

[75] *The Eyre of London, 14 Edward II, A.D. 1321*, ed. H. M. Cam. Selden Society, 85 (1968), vol. 1, p. 93: 'comande fut a visconte etc. qe ceux chateux fusent donez en almoun pur lalme meime celle Jone, et le Roi de ceux chateux ne se entre mett' plus etc.'

[76] Bertachinus, *Repertorium* (Venice, 1590), fol. 461^{r}: 'Occidens seipsum non potest testari, vel relinquere ad pias causas, nec sua relicta gaudent privilegiis relictorum piorum'. Bertachinus then alludes, without quotation, to Bartolus, as if in support of his conclusion.

[77] Bernstein, *Bestrafung*, 15.

[78] Stevenson, 'The rise of suicide verdicts', 41.

To whom, then, finally, can we say an act of suicide was conceived as incurring a debt? The property of any dead person is in a sense mere spoil, *spolium*, to use an old Roman law term. A dead man's property is a legal vacuum. Surrounding interests tend to rush into it, debt or no debt, as we saw happen with the greedy neighbours of the Hampshire farmer-suicide in 1371. What law did was force this tendency, this right of *spolium*, into channels whose patterns have a certain consistency throughout the main monarchies considered. At a time some centuries before most of the records emerge, everything suggests, suicide had been seen as an economic and personal injury to the dead man's earthly lord, whose task included, besides the vindication of his own prosperity and honour, the avenging also of a moral injury to Christ, lord of all, as perhaps also, we should add (especially in view of lessons to be learned in later chapters)[79] of injury to the community a lord in some way represented. The patterns of punishment thus initiated passed down to secular justiciars. The patterns were then modified, on one hand by towns and by radical Roman lawyers who eliminated confiscation for suicide altogether; and on the other, by principles which distributed the suicide's property to other claimants, notably the family and pious or public causes.

That, then, is the lesson taught by the history of the suicide's property. It goes without saying that the picture needs nuance and qualification, but those are its main lines. They not only fit the scattered data. They also, surely, make a kind of sense, both in themselves and in comparison with our earlier findings about the suicide's body. There, the patterns of reaction looked for their explanation more to anthropology than to explicit law; their geographical distribution, consequently, invoked that of peoples. Here, by contrast, courts and their jurisdiction have come into their own. Lawyers certainly debated many doubtful points. But the important fact remained that they *could* debate them, for property was a matter they could confront, as distinct from shaking their heads at the wayward usages of traditional courts, knowing as little as anyone else why they were doing it. The difference reflects two levels of social consciousness, and of historical rhythm.

This picture of the treatment of suicides has nevertheless remained seriously partial. Granted that a lord did not want his men to escape by self-murder, and that he settled accounts with the corpse and property of any who did, we have so far not stopped to ask why he should have thought he was thereby doing a religious duty. And why, for that matter, when legal conditions changed and began to modify the edges of suicide law, did the principle endure that suicide was still heinously wrong? To answer these ques-

[79] Especially Chapters 7 and 14.

tions we must leave behind the cruel, fleshy, largely customary world of gallows and court, and retreat into the school and library. There, among books dusty and not so dusty, we can hope to discover what medieval people *thought* about these things, when they did. We have looked at practice. It is time for theory.

3

Religion

The relationship between what people read and write, and what they do, is the most elusive of history's variables, but where there is any degree of literacy, some relationship there has to be, however close or distant. The search for medieval attitudes had to start with what people did, but it is equally vital, now, to match that by considering what was read and written by those who could do so. Did theologians, philosophers, and commentators on the law think suicide so wrong? And if so, why? The next seven chapters will be devoted to this double question.

I mentioned earlier the paradox that medieval literature was in one sense *not* medieval, but belonged to more than one age. Among the distinctions between writing and speech is that writing can fix thoughts in time, with the result that, while even the most forceful remark spoken yesterday has vanished for ever, the plays of, say, Sophocles, are known today though written over 2000 years ago. The consequence for the study of any body of literature, taken as a whole, is that it will contain elements of different ages, like—to develop the analogy this volume began with—a landscape with different ages of rock. Far from being of mere antiquarian interest, this compound or mixed-age character of literature goes far to explain the dialectic of intellectual progress. Different epochs, which might never have found any other way of speaking to each other across the chasm of time, can engage in debate within the literary canon of a single age (as today, for instance, Jane Austen with her Regency assumptions might engage in debate with Gabriel Garcia Márquez with his modern ones, side by side on the same shelf). I should have said not 'dialectic' but 'dialectic*s*'. For there were many dialectics in operation at once, certainly in medieval scholasticism, so that the very format it used, of *questiones disputatae*, nourished a whole range of intellectual tournaments, moving on from one generation to the next, on issues like free will versus determinism, reason versus faith, whether the Church was necessary or an individual's faith alone, and many more. These contests were partly timeless, like the debate about free will. But they were also contests between different epochs, in each

of which one view or another had been in the ascendant. Acknowledging their debt to the ancients, medieval scholars spoke of themselves as dwarfs on giants' shoulders. But that was only half the truth. The medieval dwarfs did not just stand. They wrestled with the giants and set each other wrestling, each on his own in different schools, all wrestling. There were many giants and many dwarfs, the medieval dwarfs only too happy to provoke one ancient giant against another as they wrestled: Plato against Aristotle, Augustine against Plotinus, Boethius against Isidore. As in all dialectic, it was precisely from this conflict that the synthesis came, leading to a higher stage in understanding.

These remarks apply generally to medieval thought, but they are true *a fortiori* about thought on suicide. The main stimulus to reflection on this subject came from the frontal challenge Christianity presented, at this particular point, to most of the classical ethical teachers on whom Christians drew. We shall have chances to see this illustrated, but to grasp it now will serve the immediate purpose of explaining why a study of medieval doctrines on suicide has to begin, as this one will, with certain *non*-medieval doctrines, ancient doctrines, that is, known and debated in the Middle Ages through a set of classical or patristic authors. Each of the authors carried into the heart of medieval culture the *Zeitgeist* of his own distant age.

A clutch of teachings on one moral question, a small question often pushed to the margin of discussion if not beyond it, may seem a slender basis for comparing whole ages across thousands of years. But its claim on this treatment is similar to that of flesh-and-blood suicides. Only a tiny percentage of people commit suicide even in the most suicidal periods. But just as, there, a study of the tiny percentage can reveal truths which no other topic can reveal about mankind in general, so here, the little moral question of the rights and wrongs of suicide can invoke, must invoke, the deepest questions of human existence: its purpose, if any; whether there is a God or not; how far your or my happiness in life is determined by nature, human decision, good or bad luck, or providence (if any); the meaning (again, if any) of pain, bodily or mental, moderate or intense, short or prolonged; and, as always, the ubiquitous question of free will: whether there is such a thing and whether, if there is, there are circumstances where there is not the slightest merit in trying to exercise it; and so on.

These questions are not small, and they are all invoked by the one whose early history we have to consider, drawing it for that purpose from the margin to the centre of ethical history. To meet that purpose, the subject-matter of this central section of the book will be divided into nine chapters, in three groups. The first group of three will consider those ideas on suicide that medieval thinkers inherited from previous ages. The second three, Chapters

6–8, will enquire how medieval intellectuals, when confronting the question of suicide head-on, used and developed those ancient ideas. A third group, Chapters 9–11, will then rehearse medieval views on suicide expressed in what I shall call 'occasional theology', that is, views which bore closely on suicide but were either unsystematic, individualistic, or defined in the course of a discussion of some immediately related subject. This nine-chapter section as a whole, entitled 'Theory', will form a counterpart to the two foregoing chapters on 'Practice' and will, I hope, go some way to explain the attitudes behind the practices described. In so far as they do not, five further chapters will examine the social, psychological and (the final pair) historical forces which in their different measures shaped both practice and theory.

We turn at this point, then, to the ideas medieval intellectuals inherited from previous ages. This trio of chapters might have been called 'The Medieval Bookshelf' except that the doctrines it considers often filtered into medieval consciousness in other forms than whole books, for instance, in quotation, and because medieval books were anyway not put on shelves usually, but in chests. Instead I have called them 'The Written Inheritance'. I envisage, by that, pre-medieval views read and absorbed by medieval scholars of one or more of the generations between 1000 and 1300. Ancient though the doctrines will be, because it is their medieval readers that are in issue the English translations given here will come from the Latin versions available in the Middle Ages, not (unless in exceptional cases, to be explained) from their original ancient languages.

The nature of the doctrines dictates the way they must be explored, and one principle I shall follow concerns presentation. An obvious way of proceeding would be to set out verbatim the three or four dozen texts which apparently touch on the rights and wrongs of self-homicide and were read by one or more medieval scholars. Most of these three or four dozen texts will in fact appear in the course of the three chapters, and some of my presentation will take that form. But this textual approach presents difficulties. Some texts are too long to be quoted in full, while the claim of others to medieval influence is shared with texts, outside the main group, only obliquely about suicide. A second difficulty relates to the main groups of texts themselves. With exceptions of the cynic Diogenes (who allegedly said a man could legitimately take his own life whenever it suited him) and of the Neoplatonist Porphyry (who said the opposite and denied there were ever any circumstances justifying suicide), all ancient textual authorities to be examined admitted nuance or exception, and the importance of such exceptions would be hard to weigh up from the texts alone, whose meaning is too easy to bend this way or that.[1] I shall therefore

[1] Many have, in fact, been read in opposite senses. J. Flamant, *Macrobe* (Leiden, 1977), for instance, can write (p. 593) of 'une longue série de condamnations portées contre le suicide par

describe the original context of the relevant ideas. This means that some of the following pages will take the form of little 'history essays', about the relevant currents in ancient thought, essays whose purpose is to help us evaluate the influence of the inherited doctrines on medieval thinkers. We think of the latter as Christian, and rightly. But they ingested more than we always recognize from pre-Christian ways of thinking, and the influence of one medieval party on the other, of giants on dwarfs, is best measured by an in-depth psychological assessment of both.

My second principle of procedure concerns the way the material will be cut up for investigation. While the study of ancient religion and philosophy owes a lot to the Italian Renaissance, it also has the Renaissance to thank for some potentially confusing conventions. Some of these are chronological—like too sharp a division of 'periods'—while others touch the categories into which the evidence is split up for scrutiny. For instance, there was long a convention that Christian and non-Christian writings should be studied separately, in different parts of a library (as recognized by the Dewey cataloguing system) and by readers with different types of collar. While these conventions are inevitable by-products of academic evolution, they remain a modern construct. My resort will again be to the example of the Scarlet Pimpernel, who was always crossing frontiers. The outcome will be that the following three chapters will be arranged analytically, as nearly as possible, not chronologically. That is, the whole bloc of material will be viewed successively from three different aspects, an arrangement with the consequence that we shall run chronologically through much the same long period three times. In doing so we can take courage from the example of the lithograph, in the printing of which the same essential outlines are printed three times, each time with the contribution of a different colour. The reader will, I hope, find it easy to laminate the three histories as each one is told. Among its other recommendations, this chronological liberty has that of reflecting how the ancient authorities stood in the medieval book chest: namely simultaneously, their time of arrival there having had nothing to do with the chronology of their original composition.

In cutting up the ancient legacy into three I have been led by the symbolism fed by three cities, the cities whose legacies have largely determined western history: Jerusalem, Athens, and Rome. Although history has no straight lines, and the actual cultural career of each of these capitals was complicated, tradition is not entirely misleading in assigning them pre-eminence, respectively

la plupart des philosophes'; while much of J. Cooper's article, 'Greek philosophers on euthanasia and suicide', in B. A. Brody, ed., *Suicide and Euthanasia* (Dordrecht, 1989), 9–37 is concerned to argue the opposite case.

in religion, philosophy, and law. Our tale of three cities starts, then, with Jerusalem.

Medieval written culture began as a religious culture, but that is not the same as to say Christian. Its material was seen as Christian—or it would not have been accepted—but for us the term 'Christian' begs too many distracting questions. The biblical and patristic texts that passed to the Middle Ages bore the mark of many influences at work in the ancient world, some of which—as we shall see in the closing chapters of this volume—were, some not, specific to the Judaeo-Christian inheritance. One challenge faced by medieval scholasticism would be to distinguish these influences, independently evaluating the doctrines they carried. The aim now is to continue that task. So the term 'Christian' is at this stage both too specific and too imprecise to be the right one. It will be best instead to say 'religion'.

The most authoritative literary heirloom of medieval religion was naturally the Bible. It was in a class by itself. More precisely, in the Middle Ages the Bible meant the Vulgate, the Latin version made for the *vulgus* of the fourth-century Western Empire by St Jerome and successively copied, with enough changes to make its textual history an academic Forth Bridge—a job never to be finished—to form the bedrock of medieval learning. The meaning of biblical passages on suicide has been debated with a vigour inversely proportional to their length, with the result that interpretations have been dependent largely on context and comparison.[2] Since most of the texts are in what Christians call the Old Testament, whose interpretation is more central to Jewish moral theory even than to Christian, the debate has been largely Jewish, and has affected Christian ecclesiastical doctrine at most peripherally, some of the influence indeed flowing in the opposite direction (Christian thought influencing Jewish).[3]

While little will be said at this point about Jewish views on suicide (their ancient phase will concern us much later), the present medieval purpose will best be served by looking at the written religious inheritance, wherever it comes from, from the medieval churchman's point of view. That means looking at the Bible through the eyes of the early Church: first, that is, as its suici-

[2] A recent reference to main positions in the debate is A. J. Droge and J. D. Tabor, *A Noble Death: Suicide and Martyrdom among Christians and Jews in Antiquity* (San Francisco, 1992), esp. pp. 85–106, and notes 107–12, although these two authors are more inclined than I am to read the biblical texts as morally neutral.

[3] For specifically Jewish debate, see H. Soloveitchik, 'Religious Law and Change: The Medieval Ashkenazic Example', *AJS Review. The Journal of the Association for Jewish Studies*, 12 (1987), 205–21; and B. A. Brody, 'A Historical Introduction to Jewish Casuistry on Suicide and Euthanasia', in Brody, ed., *Suicide and Euthanasia* (Dordrecht, 1989), 39–75. On ancient Jewish burial customs see pp. 514–24 below.

dal passages came down through the Vulgate, and secondly, as they were invoked and interpreted by the early 'Fathers' available in Latin. Since only one of these Fathers spoke at any length on suicide, and bequeathed to later generations what became its *locus classicus*, the 'Fathers' in question will mean mainly St Augustine. This chapter will begin, then, with the Bible; go on to the Fathers before Augustine; and finish, at some length, with the great man himself.

The Bible

One peculiarity of the Vulgate was its inclusion of the fourteen books known in the modern Protestant canon as the Apocrypha, and given lower authority. That made, for medieval Bible readers, a total of seventy-two books, in most versions. These books contain copious narrative, much of it violent, so it can be no surprise that they contain several suicides. They also contain tangentially suicidal allusions on two more levels, either as suicidal incidents which do not reach the point of a death or (the second level) in general reflections on the desirability of dying. The books will be reviewed here on these three levels, beginning with the full-scale suicides.

Eight cases of suicide

The main candidates as biblical suicides number eight. Since most will be referred to again, each in its own connection, I shall make a mere inventory and leave relevant moral complications until later. Quotations will be translated straight from the Vulgate.[4]

Abimelech

The first candidate was Abimelech. Abimelech was one of the 'judges' in the book of that name, which refers to an interregnum dated by scholars to the eleventh century bc (though the record was made in stages between then and the early sixth century bc). After three years of unjust rule, Abimelech provoked a revolt. During it, a woman threw a millstone on his head, and when the millstone fell on his head Abimelech:

> called swiftly to his armour-bearer and said to him, 'Draw your sword and kill me, so that it be not said of me that I was killed by a woman.' The young man did as he was told and killed him. [Judges 9: 54]

[4] The best edition is that published by the Deutsche Bibelgesellschaft (1969): *Biblia sacra iuxta vulgatam versionem*, ed. R. Weber, OSB, 3rd edn, ed. B. Fischer, OSB, and others (Stuttgart, 1983).

The only thing to be noted at this point is that while the decision to die was Abimelech's own, he got an agent to execute it.

Samson

The same book of Judges (16: 18–30) tells soon afterwards of the second self-killer, Samson. Scourge of the Philistines, Samson had temporarily lost his prodigious strength through the wiles of Delilah, who cut off the lock of hair on which it depended. Samson was captured, blinded, and finally obliged to present himself at a large banquet of his Philistine captors. But his hair had meanwhile regrown. Secretly aware that his strength had for this reason returned, Samson found his way to the pillars that supported the massive roof of the banqueting hall. Then:

> Samson took hold of the two pillars on which the building was supported, one with his right hand and the other with his left. And he said, Let me die with the Philistines [*moriatur anima mea cum Philisthim*]. And he shook the pillars mightily, and the building fell on all the nobility and the rest of the multitude that were in it [*omnes principes et ceteram multitudinem quae ibi erat*], and he killed many more in dying than he had previously killed when alive [*multoque plures interfecit moriens quam ante vivus occiderat*].

Before pulling down the temple, then, Samson had said 'let me die with the Philistines.' At least, the imaginary person literary theorists call the Omniscient Narrator says he did. No one could have known. If the narrator's Samson had said nothing, his case might have come under the considerations applicable to soldiers whose recklessness for their personal safety reaches the point of 'kamikaze' (to use a term applied to the tactic of some Japanese pilots in the Second World War). Death was certain, even if not the main intention. Samson's 'suicide' was doubtful enough to have failed to attract attention from some early church Fathers, St Ambrose, for instance.[5] Once suicide fell under general condemnation, however, in the fourth century, Samson's case was recognized as an example. It was an embarrassing example, and we shall see attempts to get round it.[6] This was because Samson, unlike Abimelech and most other biblical suicides, was definitely a 'good' character, understood by later generations as having had exemplary faith, the Epistle to

[5] As in *Epist.* 62 [*Corpus Scriptorum Ecclesiasticorum Latinorum*, 82, 121–42], a long letter written in praise of Samson, in 385, to dissuade a bishop from allowing Christian–pagan marriages. Far from anywhere suggesting that Samson's 'kamikaze' was wrong, Ambrose quotes the champion's last words (§31 [p. 141.392–3]) and lauds his mode of death in unmistakably Stoic terms (§32 [p. 141.403–5]): 'in morte se ipsum vicit et insuperabilem gessit animum, ut contemneret et quasi pro nihilo haberet vitae finem omnibus formidolosum'. (In the serviceable Maurist edition reprinted in *Pat. lat.*, 16, 982C–94A, the letter is no. 19.)

[6] P. 116, 119 below. In *Samson Agonistes*, lines 1637–52, Milton would significantly omit the incriminating words [ed. D. Bush, *Milton, Poetical Works* (Oxford, 1966), p. 555].

the Hebrews (11: 32) mentioning him as one of those 'who by faith conquered kingdoms [*qui per fidem devicerunt regna*]'. Samson's suicide, if that is what it was, became in this way one of the awkward facts of Old Testament history.

Achitophel

Achitophel was counsellor to King David's restless son Absalom, a little later than Abimelech and Samson and recorded in the Second Book of Samuel (17: 23). For a long time Absalom followed Achitophel's advice 'like an oracle of God', but when he advised Absalom to rebel against his father, rival counsellors ousted him:

and when Achitophel saw that his advice was not followed he saddled his ass, mounted and went off to his home and city; and when he had set his house in order he hanged himself.

Abimelech had employed an executioner. Samson's suicide was incidental to his killing Philistines. Achitophel's suicide, for the first time now, was direct and unequivocal.

Zimry

Zimry (or Zambry), the fourth case, was another violent usurper, whose seven days of misrule are recorded in what is now called the First Book of Kings.[7] Zimry was overthrown by a military *coup d'état* and had every reason to anticipate capture and execution. So:

when he saw that the city was about to be stormed he went to the palace and set fire to the king's house [or 'household'] with himself.

The Vulgate text there has *succendit secum domum regiam*, which could mean that Zimry burned the king's household to death as well as committing suicide. At all events, the writer this time underlines that Zimry's end was a bad one and appropriate to a bad man. For he goes on:

And he died in the sins he had committed, doing evil in the sight of the Lord, walking in the way of Jeroboam, and in his sin, by which he made Israel to sin. [vv. 18–19]

Saul

The fifth of our eight candidates was destined for a career in medieval exegesis longer than all the others. Saul was David's unreliable predecessor as king of Israel, who died while fighting the Philistines. There are two accounts, making a split tradition reminiscent of the split traditions about great men

[7] 16: 15–20. In the Vulgate the book is the 'third' Book of Kings, the two books of Samuel constituting the first two.

familiar in medieval chronicles.[8] In the Bible, the First Book of Chronicles (I Chron. [= *I Paralipomenon*] 10: 3–5 and 13) explains how Saul was badly wounded and:

> said to his armour-bearer, 'Draw your sword and kill me; lest the uncircumcised come and make mock of me.' But his armour-bearer would not do it, for he was struck by fear. So Saul took the sword, and fell on it. When his armour-bearer saw this, that Saul was dead, he too fell on his sword, and died.

The version that splits from this is in what we call the Second Book of Samuel (2 Samuel [alias II *Regum* in the Vulgate] 1: 1–16). In it an Amalekite in the Israelite army came across Saul as Saul leaned exhausted on his spear. Saul said 'kill me, for anguish has seized me and still my life lingers [*adhuc tota anima mea in me est*].' The Amalekite obeyed and later told David what he had done, thinking David would be pleased, explaining 'I was sure that he could not live on after his injuries [*ruinam*].' The puzzled regicide was at once put to death.

Ptolemy Macron and Razias

The next two biblical suicides are from the 'apocryphal' second Book of Maccabees, and relate to events probably of the year 163 bc recorded some two centuries later, that is, early in the first century ad. The first case is told briefly. It is that of Ptolemy Macron, an official of the Roman governor of Syria. Ptolemy Macron's pro-Jewish stance led his rivals to undermine his authority with the governor by a whispering campaign. So Ptolemy 'ended his life by poison' [II Macc. 10: 13].

The more influential case from II Maccabees is that of Razias, a Jewish patriot, also known for defending his people's interest under Roman occupation. Provoked once more by a whispering campaign, the Roman governor of Judaea sent troops to arrest Razias who, seeing his fortress surrounded and soldiers about to set fire to its doors:

> turned his sword on himself, choosing to die nobly rather than become subject to sinners and suffer outrages unworthy of his birth. [II Macc. 14: 42]

The account of Razias' suicide is much longer than any of the others in the Bible, ostensibly because of the act's physical complications. The writer goes straight on:

> In his haste, however, [Razias] had only wounded himself with an unsteady thrust when the troops rushed in at the gates. Running back boldly to the wall he threw himself manfully off it, falling among the crowds, who jumped away as he fell, so that he fell among them right on his neck. Still breathing, he rose to his feet amid the general

[8] *The Violent against Themselves*, 47–8 and 482.

excitement, blood pouring from him continuously. Grievously wounded, he rushed through the crowd and, standing on a steep rock, his blood now gone, he snatched at his intestines with both hands and threw them over the crowds, calling on the Ruler of life and breath to give them back to him again. And thus he departed from this life. [II Macc. 14: 43–6]

We shall find parallels to the theatrical character of Razias' suicide in certain philosophical traditions.[9]

Judas

Finally, the New Testament records just one completed suicide. It is that of Judas, Christ's betrayer, in Matthew 27 (vv. 3–5) who, when his offer to return the thirty pieces of silver to the chief priests was rejected:

throwing down the pieces of silver in the temple, he departed; and he went and hanged himself.

But the tradition was split here too. Acts 1: 18 gave a different account of Judas' death. A lot will be said about this particular split tradition in Chapter 10.

Suicidal utterances and incidents

The above are the eight fairly well-defined biblical suicides (or nine if we include Saul's armour-bearer). Besides these, the Bible has several partial or oblique references destined to be drawn into discussions of suicide by later commentators. I again give an inventory of them as they stand in the Vulgate. Jonah (1: 12), when his ship was endangered by a storm, saw that the storm was due to his own sins, and told the sailors 'take me and throw me into the sea.' In fact Jonah survived to tell the tale, since he was not drowned but swallowed by a big fish and regurgitated. But that was a miracle. Jonah's intention to sacrifice himself for the others on board, an intention doubtless meritorious in other respects, had involved the willing of his own death. That put Jonah in the same frontier-zone as Samson, and he would accordingly be remembered in some discussions of suicide.[10]

A more direct reference in the 'apocryphal' book of Tobit was surprisingly given less attention. In Tobit 3: 10 Sarah, daughter of Raguel, after unjust reproach by her father's maidservants, was 'deeply grieved, even to the point of hanging herself. But she said, "I am the only child of my father; if I do this, it will be a disgrace to him, and I shall bring his old age down in sorrow to the grave." ' In this example, Sarah abstained from suicide, in other words, because it would hurt someone else.

[9] Below, pp. 135–6, 139–42. [10] Below, p. 100.

In addition to Judas' suicide the New Testament has at least three further direct references to suicide of some kind (their number depending on the way certain texts are read). The Pharisees in St John's Gospel (8: 22), provoked by Jesus' saying he will go where they cannot find him, ask themselves, 'will he kill himself?' The three synoptic Gospels tell of the Gadarene swine, which rush to their death down a precipice after Jesus has caused certain demons to transfer themselves to the swine from two madmen (Matthew 8: 32, etc.). (If it is thought the swine's suicide is irrelevant to human ethical questions, St Augustine's reference to this passage, to be reviewed later in this chapter, should settle the question.) Finally, in Acts 16: 25 the apostles Peter and Paul were freed from prison by an earthquake that opened the doors. The gaoler, thinking his prisoners gone, 'unsheathed his sword and prepared to kill himself', until told by Paul ' "do yourself no harm, since [we] the prisoners are all here." '

Other passages could be found to add to these. My concern, however, has been to identify the more obvious allusions and the ones which struck exegetes as invoking questions of suicide. There remains one more general biblical theme indirectly related to suicide and deserving notice. It is that of a longing for death without any immediate resolve to hasten it.

Death as a release

Ideas about death in these seventy-two books of the Bible are not constant[11] but develop unevenly—the belief in bodily resurrection being only one of many examples (it is thought to have been a fruit of contact with Zoroastrianism during the Babylonian exile (587–38 bc)).[12] Their evolution can therefore be charted. Registered at first as negative or horrific, the prospect of death, in Hebrew—as also in some measure in contemporary Greek culture[13]—can come to be seen as that of a release from worldly troubles. In Hebrew tradition, this development is clear especially in the figure of the 'weary prophet', exemplified by, for instance, Moses (Numbers 11: 14 and Exodus 32: 32), Elijah (I Kings 19: 4), Jeremiah (15: 10 and 20: 14ff), and Jonah himself. Some time after being regurgitated by the fish, Jonah sheltered from the sun under a gourd which promptly withered, throwing the prophet into dejection. He said at that point 'It is better for me to die than to live' (Jonah 4: 8).[14] The book of Job also has several passages in this vein, for instance, where Job says (7: 15):

[11] I rely for the title of this section, and for much of what follows, on D. Daube, 'Death as a release in the Bible', *Novum Testamentum*, 5 (Leiden, 1962), 82–104.

[12] H. Ringgren, *Israelite Religion* (London, 1966), 246–7, 322–3; R. C. Zaehner, *The Dawn and Twilight of Zoroastrianism* (London, 1961), 317.

[13] Hirzel, 'Selbstmord', pt 1, 84–6.

[14] Cf. Daube, 'Death as a release', 96–9.

my soul wishes to be hanged, my bones to be dead. I have despaired, and henceforth I shall not live longer.

[*Elegit suspendium anima mea, et mortem ossa mea. Desperavi, nequaquam ultra jam vivam*]

The possibly suicidal resonance of that passage was to be remarked on at the very outset of Gregory the Great's *Moralia in Job*,[15] a book every serious medieval moralist was expected to study.

Conclusions

Biblical narrators, then, were not unfamiliar either with suicide or with more or less distantly suicidal dispositions. Nowhere does a biblical writer add an explicit moral evaluation of the act as intrinsically good or bad, but much is implicit. Thus the deaths of Abimelech, Achitophel, Saul, Zimry, and Judas were all told as the Bad End of a sinner, and the kind of Bad End to which the older stories might deliberately draw the reader's attention: 'thus God requited the crime of Abimelech' (Judges 9: 55); '[Zimry] died in the sins he had committed' (I Kings 16: 20). There are also implications in the other direction, of two sorts. On one hand stands the problematic Samson with his kamikaze suicide mission; on the other, Ptolemy Macron and, above all, Razias, both of whom are portrayed as the very type of heroic suicide. We are currently looking at books, not at their readers. What readers made of Samson and Razias will be considered later.[16]

Meanwhile it should be noticed that the Bible is equally reticent on the question how suicides' bodies should be disposed of. Around ad 70, the Jewish historian Josephus would say that Jewish practice in respect of suicides included their shameful burial after dusk.[17] While this may have been true in the first century ad, and even (as I shall argue later) for some immeasurable period before then, no *biblical* text confirms it, and two of the earlier stories say the opposite. Thus the remains of the self-hanged Achitophel were buried in his father's tomb (II Samuel 17: 23), and although the Philistines condemned Saul's bones to the public humiliation appropriate to a defeated enemy, they later buried the bones honourably under an oak, and were praised for it by King David. David in due course procured the bones and buried them next to those of his old friend, Saul's son Jonathan (I Chronicles 10: 5, 13), with no trace of ritual disgrace.

So one question is left: whether, narrative apart, the Bible contains any

[15] *Epistola dedicatoria Leandro*, ch. 3; ed. M. Adriaen, *Corp. Christ. Ser. lat.*, 143 (Turnhout, 1979), pp. 4.126–5.3: 'Et quis rectum sapiens credit virum tanti praeconii, quem videlicet constat ab interno iudice praemia pro patientiae virtute recipere decrevisse inter verbera suspendio vitam finire?'

[16] See index, under both names.

[17] *Jewish War*, bk 3, §382.

explicit prohibition of suicide. We shall be hearing St Augustine build an influential case on the sixth commandment, 'Thou shalt not kill' (Deuteronomy 5: 17), but there are other passages too which can be read in this light. Among the more salient is Deuteronomy 32: 39. In the course of a chapter which emphasizes the exclusiveness of divine powers, God says 'I kill and I make alive,' a claim which would be echoed in Wisdom 16: 13: 'thou hast power over life and death.' Ecclesiastes 2: 14 meanwhile enjoins us to 'bear everything in patience.'[18] Above all, Jewish scholars from long before the Middle Ages interpreted as a ban on suicide the fifth verse of Genesis 9, translated in the Revised Standard Version as:

'for your lifeblood I will surely require a reckoning; of every beast I will require it and of man; of every man's brother I will require the life of man.'

The Vulgate reads:

Sanguinem enim animarum vestrarum requiram de manu cunctarum bestiarum: et de manu hominis, de manu viri, et fratris eius requiram animam hominis.

(I shall later be suggesting why St Augustine may have missed this text.) There are more. But it is not, I repeat, my aim here to trespass on the function of modern biblical scholars, only to draw attention to the main authorities available to those of their predecessors material to these chapters.

The Early Fathers

All those passages, studded along the length of the seventy-two books of the Vulgate, were familiar to medieval divines, thanks to St Jerome and his dark-age editors; thanks, too, to the liturgical recitations which fed the Bible, day by day, into the minds of all clergy as they followed their rules. We shall see that none of this made them think much about suicide. The Bible gave them plenty more to think about. If its truths are inexhaustible, it follows that at any time there must be biblical themes still undiscovered, even today. The moral status of suicide was for two or three hundred years one such undiscovered theme, and would remain so until influences *not* in the Bible changed the way readers understood it.

That will be a medieval story, but the anticipation is instructive because the same was true also in early Christianity. For the first three centuries, there is almost no explicit commentary in either Latin or Greek on any of these biblical suicides. When comment starts to thicken in the fourth century, it does so

[18] Quoted by St Augustine, *Epistula* 204, §7; ed. A. Goldbacher (1911), pp. 321.25–7. See p. 115 below.

for reasons similar to those that would provoke it in the twelfth. Either, that is, it comes from a scholar who has decided to be especially systematic and who must comment on everything; or it reflects a need in the contemporary Church, especially the need to refute pagans or heretics.[19]

The prolific systematizers in this case were the Greek Origen and the Latin Jerome. Origen (*c.*185–254) was also a chronological exception, since his written condemnation of suicide pre-dates those of most other Christian Fathers by about a century, coming in a set of biblical commentaries he wrote in the 220s or 230s. Commenting on Matthew 27: 4–5, Origen pointed out that Judas—*pace* those who claimed he was totally bad by nature—did make a genuine attempt at repentance but 'not according to knowledge' (a quotation from Romans 10: 2); for Judas should have recalled how Job had been tempted to suicide but recognized it was not allowed, no one being permitted 'to remove himself from life in any way whatever'.[20] Origen's commentary was translated anonymously into Latin *c.*390, albeit weakened by its author's unorthodox reputation, which kept him from some Latin reading lists (even Gratian's huge assembly of canonical texts *c.*1140 would quote the Commentary on Matthew only once, and in another connection).[21]

It was otherwise with Jerome (*c.*345–420), whose responsibility for the Vulgate would alone have guaranteed him high status as a Church Father. Jerome

[19] B. Schöpf, *Das Tötungsrecht bei den frühscholastischen Schriftstellern bis zur Zeit Konstantin* (Regensburg, 1958), 48–9; Bayet, Le *suicide*, 232–6 ('silence du moraliste, silence du droit' in the third century), 322–9 (fourth century). Cf. *Pat. lat.*, 218, 1242, where Migne's index *De suicidio* begins: Lactantius, Eusebius Pamphilus, Optatus Milevitanus, Philastrius, Ambrosius, Hieronymus, Augustinus. The earliest of these was Lactantius, who wrote *c.*300–*c.*320. An accessible review of patristic views on suicide is that of D. W. Amundsen, 'Suicide and early Christian values', in Brody, ed., *Suicide and Euthanasia*, 72–153, esp. 96–122. In the first three centuries ad, the only possible exception Admundsen's survey suggests to the absence of biblical debate is an allusion to Job, as a model of patience, by Clement of Alexandria (*c.*150–*c.*215) (Amundsen, 113–16). The first of the Fathers in Amundsen's survey to claim biblical authority for condemning suicide is St Ambrose, *Ad Marcellinam* (ad 376; Amundsen, 120; cf. below, n. 24). For the Christian contemporaries of Cyprian and Tertullian (that is, in the late second and early third centuries), Amundsen (p. 113) finds, suicide was not a problem, practical or theoretical.

[20] E. Kostermann, rev. E. Benz, eds., *Die Origenes Matthäuserklärung*, vol. 2: *Die lateinische Übersetzung der Commentariorum Series.* [= Die griechischen christlichen Schriftsteller der ersten Jahrhunderte, vol. 38. Origenes, vol. 11] (Berlin, 1976), 245.4–5: '*ἀπήγξατο μὲν εἰ καὶ διαπύρως μετανοῶν, » ἀλλ' οὐ κατ' ἐπίγνωσιν «*', and .16–21: [after quoting Job 30: 24] '*οὐδὲ μνησθεὶς μεθ' ὅσας περιστάσεις 'Ιὼβ λέγει » εἰ γὰρ ὄφελον ἐμαυτὸν χειρώσασθαι ἢ δεηθείς γε ἑτέρου καὶ ποιήσει μοι τοῦτο «, ἅτινα τὸ ὁπωσοῦν ἐξάγειν ἑαυτὸν τοῦ βίου ἀναιρεῖ.*' That the anonymous Latin translation (from which most of the fragmentary Greek original has to be reconstructed) should sharpen the last-quoted lines—with an echo, by now traditional, of *Phaedo* §62B—is significant, since the Latin version was made at least a century and a half later. It runs (after the Job quotation) 'nec vidit quia non convenit servum dei seipsum expellere de hac vita', continuing, whether or not in stricter obedience to the lost original, 'sed expectare etiam de hoc dei iudicium' [ibid., line 23]. The meaning of Job 30: 24 is problematic even in Hebrew.

[21] A. Friedberg, ed., *Corpus iuris canonici*, vol. 1 (Leipzig, 1979), col. xxxii.

is almost the only Father before Augustine comparable to Origen in output and thoroughness, and in the 390s, a century and a half after Origen, Jerome too commented systematically on the Bible. Jerome found in Jonah 1: 12 an occasion for saying that suicide was wrong, and in Matthew 27: 4–5 for adding that Judas augmented his treason—surely bad enough anyway—'by the crime of self-homicide'.[22] Jerome gave no reasons in either place. He merely said, apropos of Jonah, that it is not for human beings to anticipate death, even in persecutions. Jerome's view on suicide has a telltale peculiarity. In the commentaries and in more oblique allusions he makes to suicides in narrative, classical as well as biblical, he made a single exception in his condemnation of the act, allowing suicide if it was the only way of defending chastity.[23] I shall shortly discuss this exception more fully, but signal it now because it confirms how halting the genesis was, even in the late fourth century, of Latin moral doctrine in respect of suicide. The same impression is given by Jerome's contemporary St Ambrose (*c.*339–397), bishop of Milan, who, when a correspondent put the busy bishop 'on the spot' about whether suicide was ever allowed, again allowed an exception for the defence of virginity. If he did so more equivocally than Jerome, that only underlines the message. The subject was still fluid.[24]

By the time Jerome and Ambrose wrote of the subject in Latin, it is true, an explicit condemnation of suicide had become common among the Eastern Fathers. They, too, gave little rationale for it beyond, at most, a commonplace from Greek philosophy like the one quoted just now from Origen; or an argument by Lactantius, writing in the early fourth century as the most voluble of

[22] *In Jonam propheta*, 1: 12; *Corp. Script. Eccles. Lat.*, 76, pp. 390.374–391.1: 'Non est enim nostrum mortem arripere, sed illatam libenter accipere. Unde et a persecutionibus non licet propria manu perire, absque ubi castitas periclitatur.' *In Matthaeum*, 27: 5; *Corp. Script. Eccles. Lat.*, 77, pp. 264.1499–1503: 'ut non solum emendare nequiverit proditionis nefas, sed et prius scelus etiam proprii homicidii crimen addiderit. Tale quid et apostolus in secunda ad Corinthos epistula loquitur: "Ne abundantiori tristitia absorbeatur frater." ' The passage from *In Jonam* would be quoted as authoritative by Gratian, *Decretum*, pt 2, causa 23, questio 5, ch. 11; ed. Friedberg, vol. 1, col. 934, and as one contested opinion by Peter Abelard, *Sic et non*, ch. 155; *Pat. lat.*, 178, 1603C.

[23] Besides the above passages Jerome's long and well-known letter to Eustochius, *Epist.* 22; *Corp. Script. Eccles. Lat.* 54, pp. 143–211, touches on the same theme, on which see J. N. D. Kelly, *Jerome* (London, 1975), 179–94.

[24] Ambrose, *De virginibus*, bk 3, ch. 7 §32: 'Iam ad finem orationis vela pandenti bene suggeris, soror sancta, quid de earum meritis existimandum sit, quae se praecipitavere ex alto vel in fluvium demerserunt, ne persecutorum inciderent manus; cum Scriptura divina vim sibi christianam prohibeat inferre. Et quidem de virginibus in necessitate custodiae constitutis enodem habemus assertionem, cum martyrii exstet exemplum.' The legend of St Pelagia follows. Pelagia's last internal debate echoes Seneca's evaluation of a person's freedom to die [§38]: 'Certe si vim ipsam nominis cogitemus, quae vis voluntaria? Illa magis est vis, mori velle, nec posse.' These passages are quoted by Hirzel, 'Selbstmord', pt 3, 470 n. 3, and discussed by F. Homes Dudden, *The Life and Times of St Ambrose* (Oxford, 1935), 157. Cf. Amundsen, 'Suicide and early Christian values', 120.

early Christian polemicists against pagan philosophers and against their suicide doctrines in particular, that suicide was both unnatural and, since punishable by God alone, punishable more severely than other crimes.[25] It was as if their condemnation, once uttered, was taken as understood and needed no apologetic. The Greek Fathers' position is nevertheless instructive, since it shows not only that opinion was shifting but that it was doing so without overt and articulate rationale. That is a kind of change not uncommon in the history of morals, and one that happens especially in connection with taboos. The medieval fortunes of suicide doctrine will provide parallels. Here, in the early fourth century, the silent shift implies that the contribution made by any Latin moralist would lie less in the novelty of his conclusions than in that of arguments he devised to give them substance. The conclusions had already been suggested by a surrounding climate of opinion, reached on unspoken grounds. One further, medieval result of this circumstance was that the Greek Fathers, whose theological influence was anyway indirect (because of the need for translation), would offer little stimulus to moral reflection on suicide.

In the late fourth-century Latin West there was therefore a doctrinal vacuum.[26] Moral views on suicide were changing, but on no explicit grounds. That the vacuum was filled, early in the fifth century, was due not to biblical commentary, but to developments in the Church itself, developments which might be called its growing pains. The Christian thinker most sensitive to these pains, in respect of suicide as of most other matters, was St Augustine (354–430), bishop of Hippo. Augustine's writings mark a new phase in the history of doctrines of suicide, and his view is the first of those whose genesis and character are worth examining in depth.

St Augustine and Constantine

St Augustine's unique position in the doctrinal history of suicide is shown well enough by the medieval fortunes of what he said on the subject. Until the late twelfth century, he would be the only Christian divine to treat it at any length, and his influence, acknowledged and unacknowledged, dominates other Christian writing even after then. Just how far this influence went beyond strictly theological circles is a delicate question to be broached later,

[25] Lactantius, *Divinae institutiones*, bk 3, ch. 18; *Pat. lat.*, 6, 405A–410A; cf. Amundsen, 'Suicide and early Christian values', 117–18.

[26] Cf. Amundsen, 'Suicide and early Christian values', 141: 'There is no evidence that, at any time during the centuries under consideration, suicide was a debated issue in the Christian community.'

but within them there is no question. Singly or in clusters, Augustine's arguments and examples appear repeatedly enough to leave no doubt that it was to him, above all, that medieval Christian apologists turned when called on to moralize on the subject.

What, though, do we mean here by 'St Augustine'? St Isidore of Seville had a bookcase devoted to Augustine's writings which carried the inscription 'he lies who says he has read all your works.'[27] Even on the elusive subject of suicide, this most voluminous of Latin Fathers expressed his thoughts in more than one place. The text most familiar to medieval readers was one cluster of chapters, namely chapters 16 to 27 of Book I of *The City of God*; but Augustine mentioned the subject also in Book 19 of the same work and in other writings, notably in his early book *On Free Will*, in *On Patience* and, above all, in two substantial polemical letters *Against Gaudentius*.[28] It would take too long, and be in several ways misleading, to explore every word Augustine said on suicide, since not everything he wrote weighed equally in the medieval inheritance. It would nevertheless be equally misleading to read only the suicide chapters in *The City of God*, not least because the medieval divines who relied on them rarely quoted more than a small part and sometimes only a line, it being not so much the arguments that interested them as the fact that Augustine (no less) had condemned suicide categorically, on apparently biblical grounds.

One distinguished historian of the Roman world has described Augustine's condemnation of suicide as 'peremptory'.[29] The argument of the present volume, *The Curse on Self-Murder*, would be in vain if that were correct, and the following few pages will be devoted to reversing that judgement; to demonstrating, that is to say, that the view Augustine expressed in his *locus classicus*, far from coming out of nothing, arose from Mediterranean-wide forces at work in the Church in his time. This section and the following two parts of this chapter will identify these forces and the influences from them that can be detected in Book I of *The City of God*, chapters 16–27. Two final sections will then summarize, analyse, and evaluate Augustine's influential chapters themselves.

From what has just been said on the Bible and the Fathers it may seem there

[27] *Carmina s. Isidoro ascripta*, 5; *Pat. lat.*, 83, 1109A: 'Mentitur, qui te totum legisse fatetur. / An quis cuncta tua lector habere potest? / Namque voluminibus mille, Augustine, refulges / Testantur libri quod loquor ipse tui.' Quoted by P. Brown, *Religion and Society in the Age of Saint Augustine* (London, 1972), 25.

[28] Amundsen, 'Suicide and early Christian values', 123–41, expounds Augustine's ideas from Books 1 and 19 of *De civitate Dei* and from *De patientia*, while omitting *De libero arbitrio* and using a version of Augustine's letters—apropos of the Donatist Gaudentius—published before the researches of Frend and Bels; see below, nn. 31–3 and 36.

[29] Grisé, *Le suicide dans le monde romain*, 287.

were no influences to pass into Augustine's writings, since no one had seriously tackled the suicide question. To understand why Augustine did tackle it, it is therefore worth asking first why no one before him had. The word 'reticence', while usually true and useful in respect of silences on suicide, only restates this particular question, because it fails to explain why Augustine should have burst out of that silence. A successful explanation has to reach deeper. Indeed it must reach wider too, since suicide was only one of a range of moral topics more or less neglected by the early Church and tackled for the first time in the late fourth century. Some of the conditions which gave Augustine his voice on suicide played a part also in giving those other moral themes their first airing—like doctrines on just war, and persecution. In respect of suicide the conditions nevertheless took on special configurations, and it is these that deserve our attention.

The generation before Augustine's birth had witnessed one of the most consequential changes in the history of the Church.[30] At the end of the third century, Diocletian had imposed the most severe persecution of Christians until that time, and then, like a sudden dawn, there was a switch. Between 312 and his death in 337—no one is sure when—Constantine became a Christian. That this was from one angle good news goes without saying, but it was followed by the realization that his conversion posed the Church a range of new problems, problems which have lasted ever since. One man's conversion alone, it may be said, even an Emperor's, can hardly have this effect, and to treat Constantine's conversion merely as a cause is a convenient simplification. What it really was, was the most significant expression of the inexorable advance of Christianity in the previous two centuries, and an expression which in turn accelerated the process. Changes in degree can produce changes in kind which reflect them. Two such changes in kind, in the Christian Church, can be attributed to this one.

The first was one of size. The Church grew, absorbing a greater percentage of the Empire's population. As well as the administrative complications that attend all large organizations, Christianity had the extra one that its high moral demands were now made on a wider variety of human beings, not all of them enthusiastic 'saints'. The second generic change, distinct from the first but combining with it, was that now, from the Emperor downwards, the Church included many people in government. Governments have their own set of moral problems. What with greater numbers, and Christians at the helm of a battling Empire, later fourth-century Christianity had ethical

[30] In so far as I owe the following construction to a single scholar I hope to have acknowledged the debt in my 'Peter Brown and the Shadow of Constantine', *Journal of Roman Studies*, 73 (1983), 192–203. For a recent characterization of the period, with bibliography: R. Markus, *The End of Ancient Christianity* (Cambridge, 1991).

questions to face of quite a different nature from those that had formally confronted a handful of enthusiasts.

Augustine's writings were a response to this doctrinal challenge, both in general and in the present respect. Seen in their wider context, his utterances on suicide can therefore appear, like those we shall read in the Stoics (though in the opposite phase of oscillation), as scarcely his at all, but rather as the expression of historical currents bigger than any one man. That appearance is part of the truth. It would be the whole truth if it were not that one man, through birth and circumstance, can sometimes find himself at the meeting-point of currents of this kind, and obliged in consequence to play out, in his own thoughts and life, the dialectic of a whole age.

The Problem of Martyrs

The currents of thought that most directly provoked and shaped Augustine's arguments on suicide were two,[31] and it can scarcely be accident that they matched the two earliest categories of saint, namely Martyrs and Virgins. For the mechanisms that made these two categories the bedrock of the Christian saint-cult made each of them, at the same time, the focus of a moral problem profound enough to involve the sacrifice of one's own life. Augustine tackled both moral problems in the course of polemic against, respectively, heretics and pagans, and was stirred by them to find reasons why suicide was wrong. Partly because of difficulties in the finding and dating of documents, doubt must remain which challenge moved him first in this direction. But from the circumstances of Augustine's career it was probably the Church's internal enemy, heresy, that did so, and it invites our attention first for this reason.[32]

[31] In what follows I have taken account of the recent re-dating of *Contra Gaudentium* from soon after 410 to 420: W. H. C. Frend, *The Donatist Church* (Oxford, 1952; reprint 1985), 296. J. Bels, in his otherwise authoritative analysis of Augustine's ideas in *Contra Gaudentium* and its associated letters (see nn. 36–8 and pp. 106–10 below), is misled by his acceptance of the earlier date into treating them as antecedent to the suicide chapters of *The City of God*, written almost certainly in 413: J. Bels, 'La mort volontaire dans l'oeuvre de saint Augustin', *Revue de l'histoire des religions*, 187/2 (1975) [= Annales du Musée Guimot, 94th year, vol. 187], pp. 147–80; for the date, esp. 151–2. Despite this redating I have held to Bels's view that Augustine was obliged to think about suicide first by the Donatist problem, since he inherited the Donatists from the moment he became bishop, whereas the major debate with pagans, which isolated the question of the Stoic and Christian 'martyrs by suicide', began only after 410. This decision is not meant to close the substantive question.

[32] Martyrs: H. Delehaye, *Les origines du culte des martyrs* (Brussels, 1912); *Sanctus* (Brussels, 1954); W. H. C. Frend, *Martyrdom and Persecution in the Early Church: A Study of a Conflict from the Maccabees to Donatus* (Oxford, 1965). On the meanings of the word 'martyr': Frend, *Martyrdom*, 14, 87–9; on the relation of martyrdom to suicide, ibid., 293, 403–4; and on the effect of imperial patronage after Constantine's conversion, ibid., 536–68.

For the Church, the most immediate result of Constantine's conversion was a switch from persecution to favour. It was now all right to be a Christian. This favour nevertheless transformed the moral geometry of an individual believer, and posed questions peculiar to post-Constantinian Christianity—questions significantly absent, in respect of suicide as in others, in the subsequent course of Judaism. The Christian problem arose because the Emperor's new allegiance made it easier for anyone else to be Christian, Church and State being now on the same side. That was welcome in one way, but in another it presented an obstacle. A true Christian could be tested only by persecution. Just before Constantine's time a test of this kind had been provided by Diocletian and others. Some Christians had stood the test, and while some of these had been martyred, others had survived. These near-martyrs viewed with disfavour those survivors who had *not* stood the test, the most conspicuous of whom were the *traditores* who had 'handed over' (*trado*: 'I hand over') the sacred scriptures to the Emperor's hostile officials. This rigorist party was especially strong in Africa, where it rejected the claim of the *traditores* to belong to the Church at all. The sacraments of a *traditor* priest, the rigorists said, were rendered invalid by his poor moral showing. The others disagreed, and by 313 the whole province of Africa had two sets of bishops. Since the rigorist leader at that time was called Donatus, his party and doctrine came to be called Donatists.[33]

The new movement was just one more example of the kind of problem created by the Church's new status. As with the others, the imperial authorities give the impression of not having known what to do. What *should* authorities do about alleged heretics? In the event, in the course of the fourth century, the imperial governments did almost everything, through various degrees of toleration to various degrees of persecution, the most severe of the latter being death. Whenever this extremity was reached, as it was from time to time, it gave matters a new turn. For from the crucifixion onwards, the Church's cutting edge, and for a long time its only saints, had been its martyrs. That was one thing changed by the Emperor's conversion. Martyrdom was no longer available; at least, not for Catholics. For Donatists, who claimed *they* were the true Church, it became immediately available from the moment the secular authority took the death penalty into its repertoire. Not only was martyrdom available, it was from one viewpoint desirable. For the authenticity of Donatist claims was at best precarious, and martyrs promised to do for Donatism what they had once done for Christianity. The Donatist reaction to Catholic attitudes was itself uneven, but there was no shortage of radicals among them and their sympathizers, some of whom went as far as actually to

[33] Frend, *Donatist Church*, 112–24, esp. 319: 'Martyrdom and devotion to the word of God as contained in the Bible were at the heart of Donatism.'

provoke martyrdom. Once this had begun their numbers were swelled by rootless zealots known as the Circumcellions, who read religious dissent as an invitation to political revolt, and whose spontaneous violence inspired bloody reprisal. Sectarian martyrdoms therefore multiplied.

Here was the rub. Who were daring to call themselves martyrs now? These could surely not be *real* martyrs? The dilemma was all the more embarrassing because some early Christians—as anyone could read in Eusebius of Caesaria's *Ecclesiastical History* (written in Greek *c.*315 and translated into Latin by Jerome himself, *c.*380)—had committed suicide under persecution by jumping from buildings, or leaping prematurely on pyres destined for their burning.[34] Catholic authorities were thus at last provoked, by the Donatists and their sympathizers, into examining exactly where martyrdom stopped and reckless self-homicide began.

This problem went back, in fact, even earlier than the Donatists. Before the end of the second century, moved by earlier martyrdom, the more discerning Christian teachers had already been telling their flocks not to provoke it.[35] But it was the Donatist schism that brought the matter to a crisis, and the crisis formed part of Augustine's inheritance when he became coadjutant bishop of Hippo in 395. Much in his early writing as bishop was engendered by it. With an eye on Donatism, Augustine wrote on the nature of the true Church, its relation to the secular power, on the character of sacraments, and much else. He wrote because the crisis clamoured for answers, and someone in the Church had to find them. This was true, in particular, of an aspect of the crisis which slowly came to a head during Augustine's episcopate and ended with the very last episode of the Donatist story of which we have full record, in 420. Augustine would say, then, that he had written 'I know not how often' before on the same subject, and we can read his utterances during that crisis as the fullest expression of thoughts he had long been developing.[36]

At the time of the episode in question, in 420, the pendulum that swung between toleration and persecution had just then swung again towards the latter but stopping just short of the death penalty. Despite that shortfall a Donatist bishop, Gaudentius, had made his protest by shutting himself inside his church in a town near Carthage, complete with his faithful followers, and

[34] Eusebius, *Eccles. Hist.*, bk 8, ch. 12; see below, pp. 111–2.

[35] e.g. Clement of Alexandria, *Stromata*, bk 4, ch. 4; *Pat. graec.*, 8, 1229C: '*τουτους ἐξάγειν ἑαυτους ἁμαρτύρως λέγομεν* [etc.]'. Quoted by Griffin, 'Philosophy', pt 1, p. 69. Generally on the relationship of martyrdom to suicide, Frend, *Martyrdom*, 293, 403–4.

[36] *Epistula* 204, §4; ed. A. Goldbacher, *S. Augustini Epistulae*, vol. 3, in *Corp. Script. Eccles. Lat.*, 57 (1911), 319.17–18: 'Iam nescio quotiens disputando et scribendo monstravimus'; cf. #6 [p. 321.2–3]: 'adhuc eis numquam respondisse me recolo'. The letter is to Dulcitius, the notary and tribune who had tried to repossess the cathedral of Thamugadi from Gaudentius. It dates from about the same time as *Contra Gaudentium*, or (as the last quotation suggests) slightly earlier.

declaring he would burn the church down with all in it, if the new laws were enforced.[37] As bishop, Augustine was challenged to comment, and pointed out that since the Donatists could expect from the Empire nothing worse than confiscation, not death, their proposed 'martyrdom' inside the church building was not martyrdom. It was rather deliberate self-homicide, of the kind done for revenge, or threatened for blackmail. In observing this distinction St Augustine had been obliged to separate two concepts hitherto ill-distinguished, and for nearly a century positively fused in Donatist apologetic. His letter *Against Gaudentius* is accordingly devoted to distinguishing martyrdom from suicide. He insists that the distinction is essentially ideological, not physical. *Martyres veros non facit poena sed causa*: 'true martyrdom is not determined by the penalty suffered, but by the cause.'[38] In elaborating this principle, Augustine furnished it with appropriate vocabulary harvested from contemporary Latin writing, and it was a vocabulary henceforth destined to be part of Christian apologetic. Pejorative terms like *se ipsum occidere* and *ad mortem festinare*, for instance, were coined for suicide.[39]

The Donatist challenge not only aroused Augustine to rationalize his views on suicide. It gave direction to the way he did so, in three ways. The first was Augustine's use of the Bible, as a direct response to the scriptural emphasis of the Donatists who, scourge of those cowardly 'handers-over' of holy writings to the Emperor, yielded nothing to later rigorist movements in their concentration on biblical authority. We have seen, and Augustine saw, how little backing the Bible actually held in store for would-be suicides. That little Gaudentius had nevertheless found. In II Maccabees, the heroic Razias, Gaudentius pointed out, had killed himself rather than yield to oppression, and, as a rider, Gaudentius had added Jesus' reflection in the garden of Gethsemane to disciples who could not stay awake to share his agony: 'the spirit is willing, but the flesh is weak' [Matthew 26: 41], as if, Gaudentius argued—in a Christian echo of a doctrine we shall be finding among the Stoics—Christians tested beyond endurance were allowed to kill themselves.[40]

[37] Augustine's *Contra Gaudentium libri duo*, from which most of the story can be reconstructed, is accessible in two editions, that in *Pat. lat.*, 43, 707–754, and ed. M. Petschenig, *S. Augustini scripta contra donatistas, Corp. Script. Eccles. Lat.*, 53 (Vienna and Leipzig, 1910), 199–74. Cf. E. Lamirande, *Oeuvres de S. Augustin: Traités antidonatistes*, vol. 5 [being vol. 32 of the series Bibliothèque augustinienne] (Paris and Bruges, 1965).

[38] Augustine, *Epist.* 89, in vol. 2 of Goldbacher's edition of the *Epistulae* (see n. 36), in *Corp. Script. Eccles. Lat.*, 34 (1895–8), p. 419.24: 'non facit poena sed causa'. Cf. Bels, 'La mort volontaire', 158: 'sa célèbre formule', a formula which entered general church vocabulary also through Caesarius of Arles: Frend, *Donatist Church*, 522.

[39] Bels, 'La mort volontaire', 165.

[40] Ibid., 161–2. On Gaudentius's recourse to Maccabees, a recourse contemptible in Augustine's eyes (*Epist.* 204, §6 [p. 320.23–5]), cf. Frend, *Martyrdom*, 562: 'Donatus was the true successor of Judas Maccabeus'. On the medieval fortunes of Maccabees, below, pp. 198–9. For the 'five occasions' of the Stoics, below p. 135.

These appeals to the Bible sent Augustine in the same direction, with a vigour even more apparent in his anti-Donatist writing than elsewhere. In one reply he says that Razias must have had a special divine command to commit suicide, as Abraham had a special divine command to kill Isaac, and Samson to pull down the temple.[41] In another letter on the subject, conveniently forgetting his own problematic answer, Augustine went further and challenged the whole authority of the Razias story. He pointed out that by the time of Maccabees, Jews and Christians were already different, so that Jewish ideas of that period do not bind the present Christian church. Even then, Augustine added, Razias' suicide was wrong, even by Razias' own criteria. A careful reading of the Maccabees text shows, Augustine observed, that it is Razias' life and courage that the biblical account praises, rather than the manner of his death, which it merely mentions.[42] Augustine then drew other biblical themes into the polemic. These include the Gadarene swine who drowned themselves when demonically possessed; a similarly 'possessed' boy in Matthew who endangered his life; and, by contrast, Jesus, who resisted the demonic temptation to throw himself from the summit of the Temple.[43] Job, for his part, resisted suicide, and it was characteristically Judas, the arch-traitor, who did not.[44] Some of these themes would reappear in Augustine's other passage on suicide, some not. More important than any one of them is where Augustine was looking. The effect of the Donatist challenge, a challenge from zealots for whom adherence to the Bible was no less central an ideal than martyrdom,[45] had been to push the debate energetically towards the Old and New Testaments. The biblical allusions towards the end of the suicide chapters in *The City of God* would have this polemical background.

The biblical orientation of the debate was the first way in which the Donatist controversy gave direction to Augustine's thought on suicide. A second was through his attachment to suicide of a particular clutch of negative ideas, ideas which would cling to it throughout the Middle Ages and beyond. Augustine speaks of suicide as 'very cruel', as 'mad', and as an expression of *furor* or *dementia*.[46] Far from being the kind of madness that excuses, suicidal

[41] *Contra Gaudentium*, bk 1, ch. 31, §39; ed. Petschenig, 239.19 [*Pat. lat.*, 43, 731A]. On the Stoic 'divine command', below, p. 135.

[42] *Epist.* 204, §§6 and 7; ed. Goldbacher, *Corp. Script. Eccles. Lat.*, 57, 320–2; Bels, 'La mort volontaire', 174–6.

[43] *Contra Gaudentium*, bk 1, ch. 27, §30; ed. Petschenig, 228, 15–19 [*Pat. lat.*, 43, 724B]. Cf. Mt 17: 15; Lk 8: 23; Lk 4: 9–12.

[44] *Contra Gaudentium*, bk 1, ch. 30, §35; ed. Petschenig, 233–4 [*Pat. lat.*, 43, 727A–8A]; cf. Bels, 'La mort volontaire', 163, 166; and Job 7: 15; Mt 27: 5.

[45] Frend, *Donatist Church*, 319.

[46] *Contra Gaudentium*, bk 1, ch. 27, §30; ed. Petschenig, 228.14 [*Pat. lat.*, 43, 724A]: 'dementia'; ch. 30, §34; ed. Petschenig, 233.6 [727A]: 'furor', 'amentia'; *Epist.* 204 §2 [p. 318.4]: 'in se ipsos crudelissimi'; etc. Cf. Bels, 'La mort volontaire', 160, 162, 166 for further passages in all these categories, and below, pp. 319–20, for medieval examples.

furor is (for Augustine) literally diabolical, in that only Satan will urge a man to kill himself. 'By trying to make yourselves martyrs, by burning yourself on the altar of Christ, you will in fact make yourselves a sacrifice to the Devil.'[47] Finally, suicide will land its perpetrator in Hell. That this language is markedly tougher than anything comparable in *The City of God* reflects the different polemical setting. For in *The City of God*, it is over-zealous *Christians* Augustine is trying to persuade not to kill themselves, whereas here, in the anti-heretical polemic, Augustine's antagonists and the potential suicides are one and the same. Donatists will go to Hell anyway. The only difference made by suicide will be that it will deprive these pseudo-martyrs of a chance to repent.

Where Augustine read all these ideas, if he read them at all, is a question not quickly answered. Each has its own prehistory, most of it recorded only indirectly and that usually in non-Christian sources.[48] What *Against Gaudentius* nevertheless shows is that this whole ideological battery was summoned into writing by a particular emergency, where polemical resolution required that suicide be distinguished from martyrdom and put at the other end of the moral scale.

There remains a third way in which the Donatist problem gave Augustine's suicide polemic its character. Throughout the debate Augustine was improvising. He says, in more than one place, that he is turning to the subject despite many other occupations because of its urgency, and its likely consequence for the populations Donatism may deceive.[49] Augustine's treatise reaches on this side and on that for arguments. He sometimes forgets what he has said before[50] and writes with the style of a man responding to a problem new for the Church if not, by the end of his career, new for him. Augustine responds with an inconsistent inventiveness that confirms his pioneer status, a feature again to be found in the corresponding chapters of *The City of God*.

By the mere fact of being an African bishop, Augustine thus had to face the question of the Donatists' pretended martyrdom, and had to think of reasons, based on the Bible and independent of his instincts, why suicide and

[47] *Contra Gaudentium*, bk 1, ch. 27, §30; ed. Petschenig, 228.12–13 [*Pat. lat.*, 43, 724A]; Bels, 'La mort volontaire', 160–1.

[48] The idea that suicides went to Hell had been attested in a third-century romance, *Recognitiones* 7, 14; (Bayet, *Le suicide*, 233–4). See also Chs 15–16 below. While among the early Christian writers reviewed by Amundsen, 'Suicide and early Christian values' (see n. 19), the pseudo-Clement (of Rome)'s *Homilies* (*c.*200, revised *c.*350) constitute the only authority expressly to assign suicides to punishment in 'Hades'. Lactantius and Chrysostom refer only to their exceptional degree of 'punishment', Amundsen, 117–19. Cf. pp. 542–5, 554–5 and 582–3 below.

[49] Cf. *Epist.* 204 §4 [319.15]: 'occupatissimi sumus'; §4 [319.17–18]: 'iam nescio quotiens disputando et scribendo monstravimus'.

[50] *Epist.* 204, §6 [320.23–5]: 'eis numquam respondisse me recolo'; Bels, 'La mort volontaire', 174–5.

martyrdom were opposites. When the issues came to a head, in 420, he brought his thoughts together, still partly improvising, in a predicament whose outcome was still uncertain. Any violence displayed in his polemic can be explained by the precariousness of the Catholic cause. Meanwhile, quite another problem, equally born from the evolutions of the post-Constantinian Church, was shaping Augustine's thoughts on suicide, a problem concerning, not martyrs, this time, but virgins.

The Problem of Virgins

One factor behind the variations in government policy towards the Donatists had been official concern for imperial unity in the face of the Goths. Since invading the Empire in 378 the Goths had been its most dangerous uninvited visitors and in 410 they entered Rome, plundering houses and raping women. The trauma, real enough, was also symbolic, and the violation of the ancient Roman Empire was felt most keenly where pagan Roman traditions were still most consciously defended. Some people were insisting that disasters had not happened until the old gods were abandoned for Christianity. In 413 Augustine, in reply, began *The City of God*.

The suicide chapters in Book I of this work read well enough in their context; but they do not, in fact, fit it so seamlessly as to allay a suspicion that, here too, Augustine was improving an argument he had already begun to think about in another context. The doctrinal quarter from which the challenge came was one of the knottiest of all problems unsolved in the contest with Donatism. For the Donatists had claimed that suicides might, in the right circumstances, count as martyrs, and authenticate the Church they died for. The knottiest of knotty problems now was that the Catholic Church implied the same by venerating, as saints, certain women who had killed themselves to avoid rape.

Augustine's doctrinal dilemma, in this regard as in that of martyrdom, had its origin in early Church history, and in particular in the relation of Christian and pagan moral doctrine. Like victorious empires, victorious religions suffer reciprocal conquests which, however partial, colour them with traits from their victim. As Christianity made its halting advance over Roman culture, pagan features duly reappeared within it. Much of early Church history demonstrates that effect, and one small example touches Augustine's doctrine on suicide.

The old religious traditions of the Roman rulers set a high value on chastity. Despite the aspersions of contemporary and later critics on Roman corruption in the period of decline and fall, the aspiration, at least, endured. With

almsgiving, regular religious observance, and sobriety in dress and deportment, chastity was among the ideals which Roman paganism shared with the new religion. This community of ethical norms had indeed eased conversion. An easy conversion may nevertheless not be a complete one, and the similarity of some old values with some new allowed *other* old values, not so similar, to slip through with them. One beneficiary of this mechanism was a particular Stoic endorsement of suicide: of the kind of suicide which is committed to complete a moral affirmation. When we come to look at Roman philosophers we shall see how this type of death was represented especially by two Stoic 'martyrs': Lucretia, who died for chastity, and Cato, who died for liberty; a pair of suicides who gave the ideals they represented the highest conceivable endorsement. That no true Roman woman would tolerate rape, or no true Roman man tolerate tyranny, the deaths of Lucretia and Cato left in no doubt. For rape and tyranny consisted precisely in the violation of a living person, and suicide rendered that impossible. In defence of chastity, as of liberty, this school of Roman paganism was thus able to read suicide as—to use the expression later coined by Christians to describe a sacrament—an efficacious sign.

It was this particular type of suicide, not suicide in general, which had crept into Christianity *pari passu* with the latter's conquests, and in the early Christian centuries stood back-to-back with other moral values. Hence the exception made by that champion of sexual abstinence, Jerome, and more equivocally by Ambrose, in their condemnation of suicide (suicide, both said, was allowable if chastity could be defended in no other way). In Augustine's time the most embarrassing manifestation of this fusion was in the veneration of Christian women who had killed themselves to avoid violation. Both Jerome and Ambrose had referred to some such women, the latter in a book entirely about exemplary virgins,[51] and, more important, anyone could learn of them through Eusebius' *Ecclesiastical History*.

The importance of Eusebius' account to Augustine's public bids us to look at his relevant two chapters. In one, Eusebius writes with approval of a certain holy woman of Antioch, a martyr of the persecutions of Maximian and Maximin (*c.*306), whom Eusebius' earliest editors identified as St Pelagia. When Pelagia, with her two unmarried daughters, was threatened with violation by Roman soldiers, she 'asked the guards for a moment to withdraw, and threw herself into a river that was flowing past'.[52] In another chapter Eusebius tells of a second Christian woman, of Alexandria, this one identified by his

[51] See above, n. 24.

[52] *Eccles. Hist.*, bk 8, ch. 12; St Ambrose refers to St Pelagia in *De virginibus*, bk 1, ch. 7, §33. Cf. Bayet, *Le suicide*, 342–5; and Amundsen, 'Suicide and Early Christian Values', 149 (on St John Chrysostom's long encomium of St Pelagia).

editors as St Dorothea. When the western Emperor Maxentius (306–10) allegedly extended his tyranny to the procuring of women to serve his lechery, Dorothea was among those who 'gave over their souls to death sooner than their bodies to debauchery'. Her example, according again to Eusebius, was matched by that of a third paragon, Sophronia, 'a most noble and chaste' woman of Rome, whose careerist husband had an eye on Maxentius's favour and had given permission for the Emperor's procurers to lead his wife away. But

> excusing herself for a brief few moments so that she could beautify her body, [Sophronia] entered into her bedroom and, once alone, plunged a sword into her body. She died instantly and left her corpse to the procurers. Her deeds, which alone spoke louder than any words, proclaimed to everyone, present and to come, that a Christian's virtue was the only possession that could not be conquered or destroyed.[53]

Besides these particular models, Eusebius refers more generally to virgins in Anatolia and Cappadocia who 'threw themselves from the top of high buildings' rather than submit to 'wicked men'.[54] The lamination of two ideals, normal in pagan Rome, thus passed through into the heartland of Christianity.

Before we look at Augustine's campaign to eject it again, it may be asked why Christian defences were unable to guard against the intrusion. The reason was a common one when defences fail, stealth. The attachment of suicide to virginity represented a brand-new doctrinal challenge, one scarcely recognized. In this it was typical of those ethical questions which, like the other distinction we have considered (between suicide and martyrdom) had to wait for the aftermath of Constantine's conversion before being seen for what it was. For the Christian's task of distinguishing true from false, in pagan ethics, would have been easier if small-Church Christianity had already elaborated the ethical doctrines suited to its larger successor. It would have had to do this some time anyway. Ethics were going to be needed sooner or later. But it was only when the Church grew large, in the fourth century, that the need was properly addressed; and it was rendered more urgent—so to speak gratuitously—by the stealthy immigration of those pagan moral values. Many of the ideals which recommended the two sets of ethics, after all, were the same. They were the shared ideals appropriate to the vast, coordinated and relatively peaceful society which the Church now aspired to be—ideals like respect for the Emperor (if not worship), and a premium on classical education. The adaptation of Christianity for the post-Constantinian Church, and discrimination in its pagan inheritance, were thus two faces of the same problem. The problem was impinging on the Church at just the epoch when Augustine entered it. In respect of virginity, as a consequence, as in respect of

[53] *Eccles. Hist.*, bk 8, ch. 14. [54] Ibid., bk 8, ch. 12.

martyrdom (though from another side), Augustine faced a dilemma created by historical currents much larger than himself.

These were the circumstances that lay behind the writing of those influential chapters on suicide in *The City of God*. We are now, I hope, ready to look over the shoulders of our future medieval scholars and read the result.

Suicide in St Augustine's *The City of God*

The chapters to be considered are numbers 16 to 27 in Book I of *The City of God*. They were all probably written in the year 413. Chapter 16 is in fact a disquisition on the subject from which Augustine now takes his cue to talk on suicide, namely, not martyrdom here, but virginity. In the sack of Rome in 410, occasion of *The City of God*, women had been raped, and Augustine writes of their situation, he says, less in any polemical spirit than in the hope of comforting the unhappy women: 'my concern here is less to make reply to outsiders than to console our own fellow-Christians.'[55] He provides this consolation not by reference to faith, or piety, or virtue, but by seeking to make clear what acts are, and are not, proper objects of shame. The suffering of rape is among those that are not. Rape is a misfortune, Augustine says, involving no dishonour at all if the will does not consent to the act.

The distinction Augustine makes here is one between guilt and what anthropologists call pollution. In pollution, the will and its morality need not be involved. I shall be discussing this idea more fully in respect of medieval suicide laws in Chapters 13 to 15 later in this volume. Here, Augustine goes straight on to consider a second aspect of the women's plight, in that some women, he says, to escape violation, have killed themselves. Again Augustine approaches the subject with compassion. No decent person, he says, can fail to sympathize: 'what human feeling will deny them forgiveness?'[56] At the same time he defends those women who did *not* kill themselves; for to accuse them of not caring about rape because they did not go to the length of killing themselves to avoid it, is to convict *oneself*. What of? Of the crime of 'folly'.

It is to explain this that Augustine goes on to put the general case against suicide. He does so with a momentum which precludes reordering or revision. Once more he is largely improvising, if on the basis of the thought he has already given to the subject in other contexts. Augustine's argument falls into four phases, two legalistic and two moral in character. (His ordering of the chapters does not reflect this fourfold distinction with any consistency, but it

[55] *De civitate Dei*, bk 1, ch. 16: 'Nec tantum curamus hic alienis responsionem reddere, quantum ipsis nostris consolationem'.

[56] *De civ. Dei*, bk 1, ch. 17: 'quis humanus affectus eis nolit ignosci?'

remained clear in his head and I shall use it as basis for the following résumé of his ideas.)

The first of the two legalistic phases touches civil law. As private citizens, Augustine says, we are forbidden to kill even a malefactor. How much more, an innocent person? (It is partly to give force to this conclusion that Augustine has spent time explaining that the virgins *are* innocent, despite rape.) The same case can be made from the Gospel. Judas was guilty of betraying a just man to death. But Judas is adjudged by 'the truth' (an echo, if not of Jerome, then of a belief that Jerome expressed) to have aggravated his guilt by suicide. If Judas, though guilty, was wrong to kill *him*self, how much more wrong it is for an innocent person to do so.

After returning in chapter 18 to the questions of rape and of the intrinsic innocence of its unwilling victim, Augustine turns in chapter 19 to the celebrated historical case of Lucretia. Lucretia's chapter, the fourth of the nine devoted to suicide, is much the longest in the group, indeed more than twice as long as its next rival. The length does not reflect any intricacy in argument, but rather the centre of gravity of the opposition, namely educated Roman tradition, for much of the chapter consists of rhetorical castigation of Augustine's opponents. His allusion to their own authorities betrays who these were. The author of the *Aeneid*, for instance, is called in aid. Virgil assigned to his own 'Hell', Augustine claims, those 'whose hand wrought death on themselves though innocent',[57] lines whose puzzling emphasis on innocence may have underlain the whole of this phase of Augustine's case. But in essence the message of chapter 19 is an application to Lucretia of the principles established so far. Lucretia was innocent, *ergo* in killing herself she killed an innocent person. Lucretia's reference to her own dishonour (*impudicitia*) was nonsense since there *was* no dishonour, only fear of public opinion. Of course Lucretia may, for all anyone knows, Augustine admits (900 years after the supposed event), have consented in some way to her violation (an idea destined to inspire bold psychological speculation in the Italian Renaissance).[58] In that case Lucretia would not be innocent. But if so, Augustine challenges, why do my opponents hold her up as a model of female chastity? They cannot have it both ways.

Apart from that brief hypothesis and one reference to Judas, Augustine has so far relied wholly on the assumption that the person committing suicide is previously innocent. The second of the two legalistic phases of his argument attempts a more comprehensive coverage. This occupies chapters 20 and 21

[57] *Aeneid*, 6, 477–8: 'qui sibi letum / Insontes peperere manu'.

[58] Especially in Coluccio Salutati, *Dissertatio Lucretiae*, in *Res Tudertinae*, 12 (Todi, 1971), 35–43 and 67–70; and cf. H. Galinsky, *Der Lucretia-Stoff in der Welt-Literature* (Breslau, 1932), 44–7.

and transfers the issue finally and firmly onto Christian ground. The Ten Commandments recorded in Exodus 20: 13 include the commandment: 'Thou shalt not kill.' Augustine's two chapters aim to show why this applies to suicide. He admits two possible demurs. One is that the commandment does not specify whom or what one may not kill. It does not add 'yourself' at the end. But look at other commandments. Even where *they* specify, they do not imply exclusion. The ninth, for instance, runs 'Thou shalt not bear false witness *against thy neighbour*.' But that does not mean you can bear false witness against yourself. The same is true *a fortiori*—with all the stronger reason—of commandments without this limitation. 'Oneself', in other words, should be understood. Indeed the commandment to 'Love your neighbour as yourself' proves that each of us is on a par with his neighbour, if in deserving love then also in protection from killing.

Augustine then allows a second possible demur to his employment, in this context, of the general commandment 'Thou shall not kill.' It is that there are already recognized exceptions. Some killing, after all, is allowed. For instance, while it is possible in principle to kill anything that has life, the prohibition cannot possibly be intended to apply to plants and animals. As an ex-Manichee Augustine insists that nothing but 'Manichean insanity' would suggest that we cannot kill plants; while animals, lacking the human attribute of reason, also lack immunity from killing when necessary. The other recognized exception to the commandment concerns war and justice. Elsewhere, as every student of Christian morality knows, Augustine had been moved to write at length on the essential legitimacy of these functions. He spends little time on them now beyond neutralizing their polemical value in favour of suicide.

What I have called the second of Augustine's legalistic arguments against suicide, the argument drawn from the commandment not to kill, ends with a series of references, in chapters 20 and 21, to biblical episodes which suggest exceptions. Thus Abraham was ready to kill his son Isaac when told to, and was praised for this obedience (Genesis 22: 1–13; Hebrews 11: 17). Samson, again, killed himself with the Philistines when he pulled the roof down (Judges 16: 18–30). But Augustine insists that cases like these are clear exceptions to the general law, and we must suppose the acts to have been justified by a special divine command to the named individual. That idea of a special divine command, let me say at this point (and elaborate later) was old stock-in-trade Stoicism, of which Augustine had drunk deep as a professor of rhetoric. Nor would any reader of the Neoplatonists, as Augustine was, have had any difficulty in recognizing it in the latter's writings.[59]

[59] *De civ. Dei*, bk 1, ch. 21: 'vel ipse fons iustitiae Deus specialiter occidi iubet'. Cf. p. 135 below.

To sum up so far: we must never kill an innocent person; indeed we must never kill at all, except irrational creatures, and human beings killed by express authority of the state, while any exception in favour of suicide can only appeal to special divine command (as we must suppose was given to Samson). At this point, in chapter 22, Augustine's case against suicide moves from legalistic to moral ground. The first of the two moral phases of his polemic consider the question whether or not suicide is an act of courage (*magnitudo animi*). Some say it is, Augustine allows: for instance, in those who refuse to bow to servitude or public dishonour. But Augustine corrects them. To run away from such ills as distinct from bearing them proves a weak mind (*mens infirma*). And what is public dishonour, anyway? Nothing, Augustine insists, but the clouded opinions of the ignorant. Besides, he continues as he moves back to the field of historical example, if it is brave to escape thus from the evils of the world it must be braver still, on this line of reasoning, to commit suicide when you have no evils to escape from; and that is absurd, since it reduces his opponent's case to nonsense. The example Augustine gives here is Cleombrotus, the man said to have thrown himself from a city wall into the sea merely because he had read Plato on the immortality of the soul, a stance doubly nonsensical because Plato, as Augustine reads him, had in fact *condemned* suicide.[60] Despite his awareness that historical example makes a weaker case than pure reasoning, Augustine is arguing here as a rhetorician, and he duly devotes the rest of chapter 22, as well as the whole of the next two, to a review of historical figures. While Augustine admits that many people have killed themselves lest they fall into the hands of enemies, he questions whether these have included men of undisputed piety. The patriarchs, prophets, and apostles, for their part, were such pious men; and look at them: they had enemies enough, yet not one of them killed himself. Indeed, look at Jesus, who neither killed himself nor urged his apostles to do so. If persecuted, he told them, 'go from city to city' (Matthew 10: 23), but Jesus never, ever, said 'kill yourself.'

Pagan history, which Augustine treated as more or less the scripture of his opponents, might indeed claim exceptions. But Augustine denies their polemical force. He aims for the most celebrated case, that of Cato, devoting chapters 23 and 24 to showing (as he did for Lucretia but more briefly) why the moral example of Cato is exploded by its own logic. Augustine allows that Cato was considered to be a wise and upright man; but so were his friends, and they urged Cato *not* to kill himself. Cato himself, indeed, urged his son to survive and make his peace with Caesar, and if his son, why not himself? Besides (Augustine continues in chapter 24) if they really want an example of

[60] Cicero, *Tusc. Disp.*, bk 1, ch. 34, §84; Plato, *Phaedo*, §63B; cf. pp. 123–4 below.

Roman heroism they should look at that great Roman paragon of honour and good faith, Regulus, the senator who, rather than break his parole as a prisoner of war, returned to be put to death by exposure in the desert. Unlike Cato, Regulus had actually defeated his enemies. Yet for motives of honour and patriotism Regulus made himself their victim, without once contemplating escape by suicide. If a pagan can die like that, for pagan gods (gods, as it happens, whom Augustine has earlier reproved precisely for thus leaving Regulus in the lurch),[61] how much more should a Christian suffer in this manner for his God!

The fourth and final phase of Augustine's attack on suicide occupies chapters 25 to 27. These chapters consider a second possible moral approach to the suicide question. Suppose, when a girl is threatened by unwelcome intercourse, she fears she *may* consent to it, and kills herself to avoid this occasion of sin? Augustine gives three reasons why she should not do so, and they apply in all analogous cases. First, by killing onself one is certainly, not just possibly, committing a sin, namely suicide. That is irrational if done to avoid the mere possibility that one might commit another, namely fornication. Next, Augustine points out that the immediate, certain sin is worse than the more distant possible one. For suicide is a *detestabile facinus et damnabile scelus*—a 'detestable crime and damnable outrage'—a status Augustine does not (apparently) here envisage for adultery. Augustine's third argument in this subcategory is a *reductio ad absurdum*. If it were right to kill oneself to escape temptation, he says, the moment to do it would be straight after baptism, which would obviate the need for all the struggle with temptation, repentance, and the rest of the vagaries of moral existence. *Quod est absurdum.*

Augustine breaks the sequence of the last phase of his argument to consider, in chapter 26, the awkward question of the virgin suicides already recognized in the Church as saints, and openly admits his ignorance by declaring: 'I will avoid rash judgements.' He can only explain the anomalies on the grounds already offered in chapter 21 in respect of homicide: those virgin saints must have had a special, and unmistakable, divine command. Like Samson, they must have been told to act as they did by a direct command peculiar to themselves, and this means their example cannot be made into a general rule for people to whom no such command has been given.

Strength and Weakness in St Augustine's Legacy

Understood merely as an argument, and apart from all historical considerations Roman or medieval, Augustine's critique of suicide may be said, like

[61] *De civ. Dei*, bk 1, ch. 15.

many polemic assays, to have some weak points and some strong. Weaknesses can be found, first of all, in both the legalistic positions. The contention that suicide often involves the killing of an innocent person is a self-contradiction. Readers of this volume have already been alerted to the maverick moral character of suicide, and one expression of this character is that the act *per se* renders its perpetrator guilty and hence, on that line of reasoning, worthy of execution. Augustine well realized this paradox, and could have read it in Porphyry if he had not.[62] (We shall see the same problem arising in Roman law.) A second objection can be raised against St Augustine's use of the commandment 'Thou shalt not kill.' The three main exceptions to the commandment—namely animals, criminals, and military enemies—owe their exclusion to arguments which have been differently evaluated over history, and even St Augustine's own views on the latter two were complex and evolved over time.[63] Interpretations of the commandment 'Thou shalt not kill' have therefore varied, and the case for excluding animals or military enemies has at times seemed no stronger than that for excluding some kinds of suicide.

Of Augustine's two moral arguments, the first, on the nature of courage, is surely the stronger, and would incidentally have the advantage of support from Aristotle when medieval scholastics came to consider the question.[64] The elegance of Augustine's second moral argument—that suicide cannot be justified as an escape from temptation—meanwhile falls short by saying nothing of *degrees* of temptation. Augustine offers no counsel, for instance, to the captured soldier who realistically fears that, under torture, he might reveal data which could send a hundred others to gruesome deaths.

The presence of potentially vulnerable areas in Augustine's case proves no more than that he had failed to achieve the impossible. In contrast to these, other lines of his thought are conspicuously robust. Augustine had been a professor of rhetoric and remains a good destroyer. The supreme moral examples of Roman tradition, Lucretia and Cato, do not survive Augustine's exposure of self-contradiction in their histories. More significant is Augustine's reference to biblical history. We have ourselves reviewed obvious biblical suicides and noticed that all, or almost all, were bad or misguided characters. Augustine does the same the other way round by pointing out that none of the conspicuously *godly* men in the Bible ever killed himself, whatever the degree of persecution.

[62] e.g. *Contra Gaudentium*, bk 1, ch. 13, §14; ed. Petschenig, 208.17 [*Pat. lat.*, 143, 712A]: 'a seipso nullus innocens occidatur'. Porphyry: below, pp. 148–51, and Kelly, *Jerome*, 184.

[63] Summary and literature in R. Markus, 'Chapter 6: The Latin Fathers', in J. H. Burns, ed., *The Cambridge History of Medieval Political Thought* (1988), 113–16.

[64] Below, pp. 125–6, 230 and 235.

It may be noticed that Augustine omitted most of the obvious suicide references in the Bible. This fact partly reflects the rhetorical orthodoxies of his pagan readership, and partly the unsystematic character of his suicide chapters as an ensemble. Augustine makes no attempt to reduce this defect. His argument proceeds by bounds, making him sometimes repeat himself, as in chapters 16 and 18 (which argue twice over that rape does not impart guilt), and 21 and 26 (which say a soldier may kill in war), sometimes unashamedly cutting short the reasoning for the sake of illustration (as in chapter 22: 'although *ratio* is to be preferred to *exempla*, nevertheless . . .'). Sometimes Augustine switches to another subject for the length of a whole chapter, only to return to it afterwards with an 'as I began to say' (as in chapter 27). The articulation of Augustine's arguments offered here—two legalistic and two moral—betrays less any preconceived plan in Augustine than the impetus of a doughty polemic. An exceptionally brilliant and well-read author, already confident of the result he sets out to prove, Augustine was obeying the momentum of the *magnum opus* he was engaged in, and did not stop to perfect a case whose purpose was not to convince Christians that suicide was wrong (which they should know already) but to prove, to pagans, that the Christian condemnation of suicide was just one more respect in which the new religion excelled the old.

This unsystematic character, while it may weaken the logical force of Augustine's case, enhances its use as an historical and biographical document, since Augustine unconsciously betrays his own dispositions. Towards the suicides who have triggered the discussion he is deliberately compassionate. The women who have killed themselves are to be forgiven. We heard earlier how Augustine upholds the innocence of a rape victim as such 'not so much to answer other people as to console our own'.[65] There is certainly animus in Augustine's language, even here, though less than in *Contra Gaudentium*. Augustine enjoys ridicule, but its targets remain, not the suicides, but his polemical opponents. Lastly, Augustine confesses at critical points the limits of his own rational certainty. His plea that a special divine command excused Abraham, Samson, and others may not make useful moral doctrine, but what the plea does, in respect of the canonized suicides of chapter 26, is give occasion to Augustine's explicit recognition that moral rules have their limits, limits that only conscience, in the end, can determine. Let him be heard in this vein:

A man may hear that self-killing is forbidden. But let him do so if God commands it, whose commands cannot be scorned. Only let him make sure that the divine command is firm and not in doubt. We acknowledge the good conscience of others on the

[65] As in n. 56 above.

basis of what we have heard, and do not not usurp the right to judge on what is hidden from us. 'No one knows what is in man except the spirit of man which is in him' (I Cor. 2: 11).[66]

After this concession, Augustine returns to give a comprehensive résumé of the general rule.

The extempore, and hence unconsciously revealing, character of Augustine's suicide chapters also lends significance to his omissions. Some aspects of his subjects he touches on lightly or not at all. All he has to say on Judas is that Christ's betrayer 'added to his guilt, rather than expiated it, since, in performing his penance in that lethal way he despaired of God's mercy and left no place for true penance',[67] an interpretation he could have learned from Jerome though not directly from the Gospel. Again, Augustine nowhere takes up the question how suicide compares with other sins. Thus he may compare suicide unfavourably with adultery in chapter 25, with his anathema of the former as 'a detestable crime and damnable outrage'. It is as if Augustine's views in this chapter were influenced by considerations other than those he actually writes down, that part of his agenda is undeclared, that is to say, perhaps even to himself. The same feature will be noticed in his medieval readers.

Meanwhile, with special regard to the future role of Augustine in medieval writing, one final omission should be noted. Augustine says next to nothing in these chapters on what happens to suicides in the afterlife, their fate being subject only to two passing hints. One, in chapter 19, quotes Virgil's allusion to those who killed themselves though innocent:

> and, hating the light,
> Cast away their souls[68]

and who, wishing to 'return above', found that:

> The Fates prevent it, and the sullen marsh's watery wall
> Confines them.[69]

The other, reminiscent of the book-reading Cleombrotus, is Augustine's remark in chapter 26 that people should not commit suicide for hope of a better life 'for those guilty of their own death do not get a better life after death'.

As for the worldly fate of suicides' bodies, whether they are to be buried or

[66] *De civ. Dei*. bk 1, ch. 26: 'Nos per aurem conscientiam convenimus, occultorum nobis iudicium non usurpamus. "Nemo scit quid agatur in homine, nisi spiritus hominis, qui in ipso est".'

[67] *De civ. Dei*, bk 1, ch. 16: 'sceleratae illius traditionis auxisse potius quam expiasse commissum; quoniam Dei misericordiam desperando exitiabiliter poenitens, nullum sibi salubris poenitentiae locum reliquit.' Cf. Jerome, *Comm. in Evangelium Mattei*, bk 4, ch. 27, *ad Matt.* 27: 4 [*Pat. lat.*, 26, 204C]; 'non solum emendare nequiverit proditionis nefas, sed ad prius scelus etiam proprii homicidii crimen addiderit.'

[68] *Aen.* 6, 477–8: 'lucemque perosi / Proiecere animas'.

[69] Ibid., lines 481–2: 'Fata obstant, tristique palus innabilis unda / Alligat'.

prayed over, Augustine says absolutely nothing; or rather, he says nothing in these chapters. For it is significant—in view of the weight sometimes to be placed on Augustine's shoulders in respect of medieval ritual practices—that Augustine *did* express general views on burial and posthumous prayer, some of them in this very context. For no further than five chapters before the beginning of the suicide section in the same Book I of *The City of God*, Augustine has considered the calamity of those Christians in Rome whom the Goths killed and left unburied. Here too Augustine offers reassurance. The fate of the body, he says, makes *not the slightest difference* to that of the soul, but only reflects attitudes among the living, so they are not to worry. Augustine expanded on this and related matters elsewhere, especially in a book devoted entirely to proper treatment of the dead, *De cura pro mortuis gerendis*. While respectful of funerary practices, of a kind which had been part of the everyday scene in the Empire since long before Christianity, Augustine repeated there that forms of burial did not affect the fate of the soul. What might affect it indirectly was prayer, and prayer, he insisted, should be offered for *all* the dead. God alone knew who could or could not be helped by it. It is worth remarking that Augustine was prepared to make this affirmation in the context of suicide, when he could be less generous elsewhere.[70]

The City of God was written to define, as well as to defend, Christianity, in the late pagan world. It was as part of this strategy that Augustine's suicide chapters broke apart the coupling, long cemented by Stoicism, of suicide and the highest moral values, a coupling embodied in the legends of Lucretia and Cato. In *Against Gaudentius*, Augustine distinguished suicide from martyrdom. In *The City of God*, he distinguished it from other Stoic values, and in the course of doing so said something about suicide as such. Even in *The City of God*, Augustine was improvising, with a wealth of learning equalled only by the energy with which he drew on it. He argued with the specific purpose of splitting a particular ethical lamination peculiar to the last days of Roman paganism. Most of Augustine's anti-suicide arguments, as a result, are not even Christian. They rest either on the logical annihilation of pagan apologetic or on the discovery, among authorities recognized by his conservative Roman readers, of those who condemned suicide. But Augustine *was* Christian. In much of his writing he was a Christian *par excellence*. That was the fact that gave later authority to his position on suicide, and meant that his chapters on it, with their brilliant but heterogeneous contrivances, would dominate Christian literary treatment of the subject for some thousand years.

[70] Cf. *De civ. Dei*, bk 21, ch. 24.

4

Philosophy

Diogenes Laertius, the historian of Greek philosophy who wrote in the third century ad, said the Greek word *philosophia* was untranslatable. 'Philosophy' was, he said, only a Greek word and denoted a Greek creation, so that when other cultures wished to philosophize they borrowed the Greek name for it.[1] The contrast between religion and philosophy in the ancient world may be incomplete: there were more and less religious philosophers, and more and less philosophical divines; but as Athens is a different place from Jerusalem, so the centres of gravity differed between two sets of writings. One of them exalted a faculty of which the other underlined the limitations, namely reason, and that was enough to put philosophy in a class on its own.

While the seventy-two books of the Vulgate may seem a lot they are collectively dwarfed by the corpus of ancient philosophy; and while few philosophers said much on suicide, many said a little. Augmented by allusions in history and poetry, bouncing back and forth from philosophy throughout the period—philosophers mentioning historical suicides and historical accounts showing philosophical influence—the corpus is so big as to have made suicide in the ancient world a subject on its own, with an appropriately large modern literature.

For all its separation in time, this corpus of ancient philosophical attitudes was of considerable influence in the Middle Ages. The influence came through three channels. One was direct, and consisted in a handful of classical philosophical texts available in Latin in medieval libraries. The other two were indirect, namely histories that included suicides with a philosophical motive or message; and (the third) the diffuse, largely hidden influence that certain ancient philosophical schools had on all who thought and wrote.

[1] Diogenes Laertius, *Lives of Eminent Philosophers*, bk 1, *proemium*, §4. For Greek and Latin classics I have used Loeb editions except whether otherwise shown. Idiom, and the need for particular emphases in context, have dictated occasional departures from the accompanying translations.

An example of this third influence was already to hand at the end of the last chapter in the appearance of Stoic traits in the thought of St Augustine, ostensibly a scourge of Stoic views; and there will be others. Together, these three channels of influence were such as to make an understanding of the specifically medieval contribution depend, again, on an assessment of its inheritance from antiquity. Once more, rather than merely providing a handful of texts, I shall try to explain the character of each philosophical position by setting it in its broad cultural context.

Plato and Aristotle

The dates at which ancient texts appeared in readable form in medieval libraries bore little direct relation to the order in which they were written. But it will be best to start where the serious documented history of philosophy starts, with Plato, who died in 347 bc, and Aristotle, who died twenty-five years later. One of Plato's Socratic dialogues, the *Phaedo*, included a *locus classicus* on suicide. It is true that the *Phaedo* was to be translated into Latin only in the late 1150s and achieved only a modest medieval circulation even then.[2] That was because the *Phaedo*'s main message, that the soul was immortal, was something the scholastics knew anyway, and the price demanded by the *Phaedo* for proving it again would have been the acceptance of too many non-Christian ideas to recommend the book generally. None of this, however, had been true in the years just after *c.*365 bc when the dialogue was first written, and from the medieval point of view the diffuse, indirect influence of the *Phaedo*, by way of other classical writings, is more than its direct one. For this dialogue, with its assurance that the soul was immortal, was very well known in the ancient world. We had proof of that just now from St Augustine when he quoted the well-known story—taking for granted his readers' familiarity with it—of the otherwise unknown Cleombrotus, who allegedly jumped off a wall to his death after reading the *Phaedo*. According to Plutarch, in another widely-known episode, Cato read the *Phaedo* twice on the evening of his own death.

Neither of these celebrated Roman suicides, it should be pointed out, had read the *Phaedo* with due care. For one passage in the dialogue—incidentally the earliest known philosophical utterance on suicide—states of suicide that 'they say it is not lawful.'[3] The story behind the dialogue was that Phaedo and his friends had gone to Socrates' prison to persuade him to escape rather than undergo a death sentence. Socrates' thanks consisted of a long discourse on

[2] L. Minio-Paluello, ed. *Phaedo, interprete Henrico Aristippo*, in R. Klibansky, ed., *Plato Latinus*, vol. 2 (London, 1950), pp. vii–xix.

[3] '*οὐ γάρ φασι θεμιτὸν εἶναι*'.

the intrinsic desirability of death. In the middle of the discourse, Socrates says this desirability does not imply, however, that we should kill ourselves, since killing ourselves is 'unlawful'. Challenged for a reason, Socrates asks if his visitors have not heard the teaching of a contemporary, Philolaus of Taranto, a Pythagorean (Pythagoreans were the followers—and largely the inventors—of the doctrines of the most famous but most shadowy pre-Socratic philosopher, Pythagoras, who had died probably a century and a half before Plato wrote). Socrates' friends say they *had* heard Philolaus' teaching on suicide, but his argument was obscure. So Socrates, admitting that 'I, too, am speaking only from hearsay,' says 'I do not begrudge repeating what I have heard,' namely:

> There is a doctrine whispered in secret that we men are as it were in prison, and have no right of ourselves to set ourselves free and run away. This is a profound doctrine and not easy to understand. Yet I too believe that the gods are our guardians, and that we men are a possession of theirs . . . And if one of your own possessions [Plato's Socrates is apparently thinking of an animal or possibly a slave] took the liberty of killing itself when you had given no intimation of your wish that it should die, would you not be angry with it, and would you not punish it if you could?[4]

There is more to be said on this section of the *Phaedo* than it would be appropriate to say here. One school of interpretation has argued that Socrates' quotation of Philolaus' teaching does not show Socrates agreed with it, much less Plato. This interpretation, however, whatever its merits, is modern, not ancient or medieval. On the face of it, Socrates is closing his own suicide option by reference to the Pythagorean doctrine that a man has a duty to preserve his life.[5]

Socrates does, however, add the proviso 'until God sends him some necessity'. This was an important loophole. Plato's view is similarly qualified in a later book, *The Laws*, which purports to legislate for an ideal state. One of the ideal state's laws says suicide is normally to be punished by shameful burial.[6] In one place, Plato nevertheless allows suicide for persons afflicted by intolerable misfortune and dishonour and, in another, even recommends it for a man so overcome by evil passions that suicide is the only way to block their effect.[7] The direct medieval influence of *The Laws* was less even than that of the *Phaedo*, and in the ancient world too, in this respect, the *Phaedo* was almost certainly the more widely read. One of its recommendations to those

[4] *Phaedo*, §62B. *Plato latinus* edition, 10.19–11.20. Because the influence of this passage was largely indirect, I have based this version on the Greek text, negligible though the difference would be in this instance.

[5] The view that Plato did not necessarily agree is that of J. M. Cooper, 'Greek Philosophers on Euthanasia and Suicide', in Brody, ed., *Euthanasia and Suicide*, 9–37, pp. 14–17.

[6] The passage is printed on pp. 505–6.

[7] *Laws*, bk 9, §§873CD, 854C.

interested in the subject, then and later, was its reference to Pythagorean tradition, source of a prohibition of suicide on religious grounds. Expressed in the *Phaedo* with the metaphor of property and owner, the prohibition came often to be expressed with that of the military: a soldier should not desert his post.[8] The same strict prohibition, with the same appeal to duty to the gods or to a god, will be seen passing into Platonistic zones of late Greek philosophy and thence entering early Christian thought.

Plato's pupil, Aristotle, took a characteristically different approach. Aristotle concentrated his main ethical doctrines into two books, the *Eudemean Ethics* (so called because edited by one Eudemus) and the *Nicomachean Ethics* (likewise named after the editor and dedicatee, in this case Aristotle's son Nicomachus). The *Eudemean Ethics* was not to be translated in the European Middle Ages, but the *Nicomachean Ethics* made full compensation. Fragments of the latter would be read in Latin in the twelfth century and augmented by more fragments, from imported Arabic writings, in the early thirteenth. Finally, around 1250, the entire text would be translated directly from Greek, then systematically combed over and improved by a growing number of bilingual scholars. When its hour came, therefore, the medieval influence of the *Nicomachean Ethics* was very considerable. Its diffuse influence, by way of ancient thought, was correspondingly less, and we shall witness that influence mainly indirectly, by way of views that were almost certainly in part reactions to it.

The *Nicomachean Ethics* contains three passages on suicide, best identified in inverse order of length. The shortest is in Book IX, where Aristotle is discussing friendship. Both from observation, and on the grounds that virtue is enlightened self-interest, Aristotle believes virtuous people do in effect love themselves, from which it follows that vicious and debased people do not, even when they imagine they are serving their own interest. Of these, the most extreme sort are those habitual criminals 'hated for their depravity, who actually seek to escape from life by killing themselves'.[9] Aristotle's ethics, as a whole, consisted partly of observation and partly of doctrine. The above allusion to suicide comes in the former category. Aristotle appears actually to have observed that habitual criminals sometimes die by suicide, and he brings the fact in to feed his ruminations about love and self-love.

The other category, the doctrinal, is represented by the two longer Aristotelian passages. One is in Book III of the *Nicomachean Ethics*. Here

[8] A history of this metaphor is sketched by P. Courcelle, 'La postérité chrétienne du "Songe de Scipion" ', *Revue des études religieuses*, 36 (1958), 205–34, on pp. 227–33.

[9] *Nicomachean Ethics*, bk 9, 1166b; ch. 4, §§8–9. For the reason given in the last chapter I translate from the version best known to medieval Latin scholars, R. A. Gauthier, ed., *Ethica Nicomachea*, fasciculus 3: *Translatio Lincolniensis. Recensio pura*, in L. Minio-Paluello, ed., *Aristoteles latinus*, vol. 26, fasc. 3 (Leiden, 1972), p. 330.13–14.

Aristotle is describing the virtue of courage (*andreia*, the virtue of a 'man', on essentially the same principle as the Latin *virtus*: 'man' in Greek is *andros*, in Latin *vir*). Aristotle finds this courage characterized most purely in the capacity of a soldier to face death calmly without either rashness or cowardice. As in the *Phaedo*, but in another moral context, the question of facing death calmly raises the question whether we may not actually seek death out. Is not the suicide courageous? Aristotle, too, says no. For, in his view, to kill oneself as a means of escape from poverty or disappointed love, or through bodily or mental anguish, is the deed of a coward rather than a brave man, because to run away from trouble is a form of cowardice. While it is true that the suicide braves death, he does it not for some noble object but rather to escape some ill. Suicide, Aristotle thinks, therefore cannot be an expression of courage because it consists in running away. It is negative, and according to Aristotle the aim of courage must be positive, a 'good'.

The longest treatment of suicide in the *Nicomachean Ethics* comes in Book V, where Aristotle is reflecting on Justice. His systematic approach brings him inevitably face to face with another maverick problem similar to the problem whether a man always loves himself. It is, can a man be *unjust* towards himself? Aristotle spends a long time thrashing out the paradoxes. The perpetrator of an injustice, he says, cannot surely be the same as its victim, for injustice cannot, by definition, be suffered voluntarily. No one would pretend, after all, that particular acts of acknowledged injustice like adultery or burglary can normally be committed against oneself. Despite these difficulties, Aristotle sticks to the belief that a man can indeed be unjust to himself, and makes suicide an example. The passage where he says so is not without obscurities. It is Aristotle the observer, not the doctrinaire, who begins it, with a reference to contemporary law.

> Some actions of just men are ordained by the law according to the strictest canons of virtue. For instance, the law does not command any man to kill himself, and what the law does not command it forbids. Yet when a man voluntarily does an unprovoked injury to some person contrary to the law he is guilty of injustice. By 'voluntarily' we mean that he knows to whom he is doing it, and the intended result. But the man who kills himself in anger, voluntarily, is acting against right law. This the law does not allow.[10]

The idea that the law forbids anything it does not command is logically puzzling, and translators have struggled in vain to elucidate it. Once more, the above English version is taken directly from the most-used medieval Latin translation, which fares little better or worse than others at this point. All that is clear, so far, is that Aristotle regards suicide as illegal and in some way

[10] *Nic. Eth.*, bk 5, 1138ab; ch. 11, §§1–9; *Transl. Lincoln.*, as above, 250.3–9.

'unjust'. But since a man cannot be unjust to himself, Aristotle goes on to ask against whom the alleged injustice is supposed to be committed. Being less naturally religious than Plato, and hence slower to summon a *deus ex machina* (that is, a man's divine 'owner') as victim for the injustice, Aristotle transfers this rule to the *polis*, making the *polis* the victim. The word *polis* can be translated 'city', 'state', or 'society'. The medieval translation had *Civitas*, usually with a capital letter, and the following translates the medieval version of this Aristotelian passage:

> To whom is the injustice? Is it not to the City? For it cannot be to himself. For [the suicide] suffers of his own volition, and nobody suffers injustice voluntarily. It is for this reason that the City attaches a penalty to one who has destroyed himself, and there is a certain shame attaching to it on the ground that he is acting unjustly towards the City.[11]

Towards the end of his long engagement with this question Aristotle touches on a dimension of it invoked also, just now, by the debate whether a man can be his own friend. While the concept of Justice 'in the full sense', Aristotle insists, refers to relations between fellow-citizens, he allows that the concept can be applied 'metaphorically' to parts in one person's nature: as when our irrational faculties can treat our reason 'unjustly'. Then our irrational faculties are like a slave who disobeys his master. Aristotle apparently thinks enough has been said on this idea by others to dispense him from more than a brief allusion.[12] The 'others', there, must mean Plato, to whom the question was central. Sixteen centuries later we shall see St Thomas Aquinas pause appreciatively on this paragraph.

Greek Stoicism: The Priesthood of the Wise

The acknowledged stature of Plato and Aristotle was one factor in the preservation of a considerable part of their writings. After Aristotle there would be no lack of Greek philosophy or even of philosophical writing, but more reliance has to be placed on occasional survivals, whole or (normally) fragmentary, of their own writings, and on history. On a superficial reading, the history of this post-Aristotelian Greek moral philosophy is mapped by its views on suicide. Each school had its own view on the subject, reflecting the drift of its ethics. Thus Diogenes, founder of the Cynic school, is said to have spurned the social preoccupations of Aristotle on the grounds that in matters of morals a man has only himself to please. Applying this doctrine to suicide,

[11] *Nic. Eth.*, bk 5, 1138, 11–14, §3; *Transl. Lincoln.*, 250.9–13.
[12] *Nic. Eth.*, bk 5, 1138b, 5–13, §9–10; *Transl. Lincoln.*, 251.12–18.

Diogenes said a man should kill himself if it suited him, and according to one account he himself died by holding his breath, simply because he was old, and that circumstance pained him. The Cyrenaic school (so called after the north African city Cyrene where the school flourished just after 300 bc) taught an equally philosophical indifference to suicide. Less individualistic and theatrical than the Cynics, the Cyrenaics put more emphasis on persuasion, and one of their luminaries, Hegesippus, had to be dismissed from his professorship in Alexandria because too many of his pupils were killing themselves. As for the Epicurean school, Epicurus' only quarrel with suicide was its potential affront to his ideal of *ataraxia*, 'serenity'. The distress that led to suicide, Epicureans said, usually came from an un-serene lifestyle, so the best cure was to reorganize this and recover *ataraxia*. If, and only if, this was ruled out, was suicide permitted, and then it must still be by a 'serene' method.[13]

Medieval scholars knew about these philosophical schools. They did not usually read them directly in Greek historians, least of all in the original Greek, but they could read about them, with quotations where there was anything to quote, in early Christian writers like Jerome and Augustine. In theory, the suicide-tolerant views of these schools should have threatened Christian orthodoxy. If they did not, that was partly due to the conditions that had preserved the philosophers' memory in the first place. Unlike the teachings of Plato and Aristotle, those of the late Greek schools were circulated largely in anecdote. Suicide and anecdote go together. At least, they do so when the suicide is committed sufficiently far away and with some ideological purpose behind it, as with Empedocles and Charondas Tirus. The pre-Socratic philosopher Empedocles' alleged leap into Etna (it was another split tradition) was supposedly designed to stop people finding his body and knowing he was mortal.[14] Charondas Tirus, a famous Sicilian leglislator, also long before Socrates, made a law punishing with death anyone who came to parliament armed. Charondas arrived there himself one day, accidentally, straight from hunting, with a knife in his belt. Quite logically, being a supremely just monarch, he committed suicide.[15] As a means of commemoration, anecdote nevertheless has a price. Anecdote is both arbitrary in the

[13] For summaries of main doctrines: J. M. Rist, *Stoic Philosophy* (Cambridge, 1969), 237–8 (Cynics); Grisé, *Le suicide*, 174–80; Van Hooff, *From Autothanasia to Suicide*, 188–90.

[14] Cf. Lactantius, *Divinae institutiones*, bk 3, ch. 18 [*Pat. lat.*, 6, 406B]: 'ut Empedocles, qui se in ardentis Aetnae specum intempesta nocte deiecit, ut cum repente non apparuisset, abiisse ad deos crederetur'. The effect of the anecdote on Empedocles' authority can be judged from B. Russell, *A History of Western Philosophy* (London, 1946), 72.

[15] Diodorus Siculus, *Histories*, bk 12, ch. 11 §3–ch. 19 §3; cf. Aquinas, *Summa theologiae*, pt 2/2, quaestio 64, art. 5; ed. P. Caramellus (Turin, 1952), 316. Aquinas nevertheless does not name him.

episodes it picks on and given to caricature, so that a philosopher who kills himself can become fixed for ever in the aura of his bizarre death. From a medieval point of view, the Cynics and Cyrenaics therefore remained innocuous. They were given their pittance of a maintenance on the very edge of learned consciousness, transferred from treatise to treatise like starved circus animals to be gazed at as proof of pagan absurdity.[16] The Epicureans might conceivably have been an exception, since the writings of their greatest theoretician, Lucretius, did survive, and in fine Latin poetry (good writers are guaranteed this freedom whatever they write), and Lucretius could *not* be caged like a starved circus animal. Instead, however, and probably partly for this reason, Lucretius was shunned, left uncopied and unread in favour of his more religiously-minded junior, Virgil. Epicurus himself was meanwhile dealt with like all the rest, and with help from a line in Horace was remembered as the supreme pleasure-loving 'pig'—a misrepresentation which had, among its other advantages, that of blocking medieval ears against his potentially seductive teaching on serene suicide.[17]

That such cultural self-defence was necessary is shown by the fortunes of the fourth and most influential of late Greek schools. This was Stoicism. Elements of Stoic ethics lodged so deeply in medieval teaching as generally to pass for Christian,[18] and this fact underlies much of what medieval writers uttered on the subject of suicide. Given the power of Stoic values, they had to make suicide an exception. The importance of suicide in this medieval context makes it equally important to discover what the Stoic doctrine on suicide was.

The discovery has to begin with the question whether there was any such thing; indeed, any such two things, a single body of Stoic doctrine (as one) and (as the other) a consistent Stoic doctrine on suicide. In the Middle Ages there was no doubt on either matter. Stoicism was an ancient 'school' and it *did* have such a doctrine. Distance, even a mere thousand years, can nevertheless distort and simplify, and it did so more easily because the most accessible Stoic author in Latin was Seneca, on the surface, at least, the most suicide-minded.[19] The importation of Greek Stoicism to Rome influenced Latin

[16] Examples will be found in the writings of John of Salisbury and John of Wales: see below, pp. 209–10 and 212.

[17] These lines summarize my reflections on the medieval Epicurus in 'The Epicureans', in P. Boitani and A. Torti, eds., *Intellectuals and Writers in Fourteenth-Century Europe* (Tübingen and Cambridge, 1986), 138–63, on pp. 138–40.

[18] A study of this effect: K. Heitmann, *Fortuna und Virtus: eine Studie zu Petrarchas Lebensweisheit*. Studi Italiani, 1 (Cologne, 1958). Heitmann notes as exceptional, and as due to his Manichaean past, that Augustine was alert to the dangers in Stoic ethics, but that Augustine's warnings on this matter had incomplete effect (pp. 127–8).

[19] Rist, *Stoic Philosophy*, 246–9; slightly modified by M. T. Griffin, *Seneca* (Oxford, 1976), 374–86.

memories of Stoicism in the same suicidal direction. Distorting mechanisms were therefore at work, and misled medieval thinkers on the true character of Stoicism. A critic might say 'let them distort: we are not ancient historians, and if medieval scholars believed there was a consistent Stoic doctrine of suicide, that should be enough for medievalists.' Indifference to the early history of Stoic doctrine might be in order if we were not dealing with the particular debate in question. But we are about to look at a dialectic between two ages, and to understand it we have to understand both parties.

Let our double question therefore be repeated. Was there, in the late Greek world, such a thing as Stoicism? And did it have a consistent doctrine on suicide? The first question only has to be uttered to raise an issue of credibility: the idea that one philosophical school can hold sway for seven centuries over a population of many millions, and be the same always and everywhere, is at best improbable. If proved of Stoicism it would be the only case known. In fact it can be disproved.[20] In the face of a colossal absence of texts one of the few things known for sure about Stoicism is its variations. Even in its intimate beginnings in the 'Stoa' (the colonnade in Athens where the founder Zeno had taught in the late fourth century bc), Stoicism was both fissured within itself, and in its relation with other schools it was fused with them at the edges. We only have to look at Diogenes Laertius' *Lives of the Philosophers* to learn of Zeno's disciple Chrysippus (and this though none of his 700 books survives) that he 'differed on most points' from the founder Zeno; and Chrysippus himself ended up changing his allegiance to the Platonic Academy.[21] Historians of late Greek philosophy give many other examples. Fissured at the start, Stoicism also changed over time, its changes having even been blamed for the loss of its writings, as one orthodoxy succeeded another and let its literary deposit perish.[22] So the label 'Stoic', in this like the labels of other late Greek schools, gives a misleading impression of unity, and therefore of distinctness and stability. The labels were a contemporary convention, fed by the same kind of polemical inertia that today preserves the names of political parties through all their changes: for all their inter-party polemic, politicians can come to look more like each other than either is like the people he is supposed to represent, and Greek philosophers—with their beards, coteries, and separation from the uninitiated—were in some measure the same.

Itself diverse and subject to evolution, Stoicism could not, then, by its very nature, have had a single view of suicide; nor did it.[23] Seneca apart, suicide is not in the foreground of any Stoic writings, and the known titles of the

[20] As by Rist, *Stoic Philosophy*, 233–55.

[21] Bk 7, §179; pp. 288–9.

[22] M. Lapidge, 'The Stoic Inheritance', in P. Dronke, ed., *A History of Twelfth Century Western Philosophy* (Cambridge, 1988), 81–112, p. 83.

[23] Rist, *Stoic Philosophy*, 254.

hundreds of lost books attributed to the school include none expressly on this subject.[24] Some Stoics were in fact remembered as having *dis*suaded people from killing themselves.[25] Again, what Stoics did say on suicide included palpable echoes of other schools' views, and vice versa. In a word, actual Stoic views on suicide, reflecting in this the nature of Stoicism itself, were neither consistent nor absolutely distinctive.

The notion of a Stoic view of suicide, for all that, is not historically meaningless; nor, if it were, would Seneca ever have dared to attribute to the first Stoic, Zeno, and to no one else, the credit for teaching men how to 'die before they had to'.[26] Again, if it were, we would not have heard, by reliable report, of writers in the Stoic tradition as elaborating the theory of the 'good exit',[27] the *eulogos exagogē*, alias the approved suicide. The reason why a school so hard to pin down can, despite that, have been associated so regularly with a particular doctrine on suicide lies in the dominant position of the Stoic school among philosophers as such. There is little in Stoic suicide doctrines which could not have been taught by two or three other of the late Greek schools. Some was, but—this time like Whigs in eighteenth-century England—the Stoics were compelled by their dominating position to tackle, more carefully than others, a problem endemic to philosophy as such. It was more a philosophic position, therefore, than a Stoic position, but since the Stoics formed the most influential school the position inevitably got linked to their name.

Once this fact is grasped it is possible to approach Stoic suicide doctrines in their historical context, not so much as Stoic private property, but as expressions of historical currents bigger than philosophy itself, let alone than any school. The currents in question were those flowing through eastern Mediterranean culture after the death of Alexander the Great in 323 bc. There is no reason to disbelieve the tradition that Alexander had campaigned with a copy of Homer under his head, conscious that he was civilizing the world.[28] But nor is there reason to disbelieve that by imposing temporary political unity, Alexander also weakened that world's local loyalties to city and nation, so that when his empire broke up its subjects were left with an awareness—infinitesimal, perhaps, but it is the nature of the change, not its degree, that is in issue—that they were somehow part of a new, Greek world. This fact might show itself only in the form of Greek language and culture as embraced by

[24] Ibid., 245; Diog. Laertius, *Lives*, bk 7, §§174–5, pp. 280–3; §178, pp. 284–7; §189–202, pp. 298–319.

[25] Plutarch, *De stoicorum repugnantiis*, 1063D [Stephanus]; quoted by Rist, *Stoic Philosophy*, 240–1.

[26] *Epist.* 104, §21; vol. 2, p. 439.21–2, quoted by Grisé, *Le suicide*, 167. The contrast is with Socrates, who taught men to die when, not before, it is necessary.

[27] '*εὔλογος ἐξαγωγή*'.

[28] R. Lane Fox, *Alexander the Great* (Harmondsworth, 1986), 59–62.

élites. But at the heart of Greek culture, everyone who encountered it knew, was a distinct faculty. Greeks were rational, and since Greek rationality found its professional practitioner in the philosopher, this meant, in turn, that in the Hellenistic world, its religions marginally weakened and its Greek character fortified, the philosopher had a unique status. It was a status analogous to the one held by the priest in cultures bound together by religion.[29]

From the point of view of Greek moral philosophy, the religions unsettled by Alexander's conquests nevertheless had an important peculiarity. They were not much interested in moral philosophy—their stance being nearer to that of the cynical nineteenth-century politician who said 'things have come to a pretty pass when religion starts interfering with our private life.' From an ethical angle Greek philosophy was to this extent a new Gospel, spreading a few generations in advance of the Christian version and through the same Greek-speaking medium.[30]

Now at the heart of philosophy was an awareness, characteristically Greek, of man's distinguishing peculiarity in the animal world—his reason. Man was a 'rational animal'.[31] Unlike ordinary animals, which responded only to the senses without thinking of past or future, man 'shares in reason', which 'enables him to perceive consequences, to comprehend the causes of things . . . and by seeing with ease the whole course of life to prepare whatever is necessary for living it'.[32] This pinpointing of reason was as old as philosophy, but it again fell to the Stoics, as philosophical 'priests' of the Hellenistic period, to give reason its full emphasis. Reason was recognized as the goal of moral life, so that moral good could be defined as 'the natural perfection of a rational being *qua* rational'.[33] For the early Stoics, the ideal type was correspondingly the Wise Man, the man perfectly attuned to reason. This Wise Man's reason, it should be added, was not merely another human faculty to be used among the rest like hearing or running. The Stoic Wise Man was not

[29] And perhaps confusable with it, as in the case of the Ἐπικουρείοι named as predecessors to a priest of Bel in an inscription at Apamea in Syria; F. Millar, *The Roman Near East, 31BC–AD337* (Cambridge, Mass., 1993), 263. (Cf. 268–9, 276, 314, and 413, for other philosophers in their Near Eastern setting.)

[30] The above generalizations are based on my understanding of a number of well-known studies including, most notably, A. D. Nock, *Conversion: The Old and the New in Religion from Alexander the Great to Augustine of Hippo* (Oxford, 1933); M. P. Nilsson, *Greek Piety* (Oxford, 1948); and E. R. Dodds, *The Greeks and the Irrational* (Los Angeles and Cambridge, 1951).

[31] Quoted from Chrysippus, *On Passions* 1, 1, by Galen. In what follows I rely largely on the texts printed in A. A. Long and D. N. Sedley, *The Hellenistic Philosophers* (Cambridge, 1987). This one is in vol. 1, p. 413.

[32] Cicero, *De officiis*, bk 1, §11; ed. M. Winterbottom (Oxford, 1994), 5.28–6.9. I quote from the translation by M. T. Griffin and E. M. Atkins (Cambridge, 1991), 6.

[33] Diog. Laertius, *Lives*, bk 7, ch. 94; cf. Long and Sedley, vol. 1, p. 383, and more generally, Rist, *Stoic Philosophy*, 19.

the man with a high IQ who becomes the dry rationalist. In its higher reaches the Stoics' reason had a quasi-religious quality[34]—as appropriate, after all, to a quasi-priesthood. It pointed towards the *logos* at the opening of St John's Gospel, a term better understood against this background. At its highest, the Stoics' reason was a transcendent entity to be shared in and attuned to, rather than a mere human faculty.

If reason was one idea central to Stoic ethics, there was another, essential to a self-conscious ethics: will. Will was what converted rationality with action. Early Greek Stoicism, it is true, had been ambivalent about will, and argued that once a man had seen a rational course of action he had no choice but to follow it, as if mere recognition involved a kind of necessity. But critics outside the school had already attacked this view as too deterministic, and sometimes even unimpeachable Stoics would talk in a different vein, teaching, for instance, that the Wisdom of the Wise Man consisted precisely in his freedom: 'the Wise Man alone is free and bad men are slaves'—freedom being understood there as 'the power of independent action', that is, essentially, free will.[35] It was Panaetius, the Middle Stoic of the first century BC—who knew Cicero personally, and whose teaching survives in the latter's *De officiis* and its numerous Christian-Latin offshoots—who threw off hesitation on this point. Panaetius acknowledged that the soul was divided and that the very function of reason was, as distinct from merely understanding what needed to be done, to 'rule' and 'temper' appetite.[36] Panaetius' doctrine on this topic left plenty for the sturdy Romans' willpower to build on.

The slowly burgeoning concept of freedom, and the rationality it was urged to obey, became the twin pillars of Stoic ethics, the philosopher's preoccupation with them being fed by his quasi-priestly role. The philosopher's status—nay, his very beard—compelled him to act in a manner conspicuously rational. Among the range of moral doctrines that followed from this, one concerned suicide. For reason has a special relationship with death, and suicide is a kind of death. If we simply *ratiocinate* about death, it disappears. There is no death. What harm can death do to a man, after all, if he is not there to be conscious of it? 'When a man is there, death is not; and when death is there, the man is not,' said Epicurus.[37] As a human experience, death does not exist. Hence the prospect of it is morally indifferent. Consciousness, of

[34] Cf. Griffin, *Seneca*, 373.

[35] '*Μόνον τ' ἐλεύθερον, τοὺς δὲ φαύλος δούλομς. εἶναι γὰρ τὴν ἐλευθερίαν ἐξουσίαν αὐτοπραγίας, τὴν δε δουλείαν στέρησιν αὐτοπραγίας.*' Diog. Laertius, *Lives*, bk 7, ch. 121. Plutarch, *Cato*, ch. 67, §1. Cf. Rist, *Stoic Philosophy*, 130–1.

[36] Rist, *Stoic Philosophy*, 173–200, esp. 175 on the divided soul; cf. Cicero, *De off.*, bk 1, §101; p. 41.6–10.

[37] Diog. Laertius, *Lives*, bk 109, ch. 125; cf. also A. J. Droge and J. F. D. Tabor, *A Noble Death* (San Francisco, 1992), 27.

ourselves or of anything, depends on being alive, and if we fear death, the explanation can only lie in instinct, fortified by custom, that is by the ingrained practice of irrational people. In a word, only emotion could justify fear of death. But the Wise Man, with his *apatheia*, does not *have* emotion. Emotion is irrational. The philosopher must therefore, by the remorseless syllogism of his own reason, treat death as indifferent.

Now if death *is* indifferent, and other things are not, death must under some circumstances be a chosen course of action: that is, when other factors (not indifferent) on balance recommend it. At the opposite pole to Albert Camus's Sisyphus—who looked in vain in an absurd world for rational grounds to commit suicide and survived because none was forthcoming—the Stoic, whose world was rational and therefore the opposite of absurd, *must* sometimes find in it reasons for dying. The Stoics' position resembled that of a man who leaves a room if it becomes too smoky, or a banquet if it grows disagreeable. (Both images entered the Stoic repertoire easily, and remained there.)[38] Indeed it was not just that the Wise Man *could* leave the smoky room. He *should* leave it, because reason, after fully weighing the pros and cons, had said he should. To act otherwise was to surrender to criteria other than reason. Of course fear of death is strong, indeed the strongest of all human emotions. But it remains emotion, not reason. A man who yields to non-rational criteria like that is not wise. In Panaetius and his Roman disciples that meant his will was weak. When circumstances dictate—when the room grows too smoky or too noisy—suicide therefore becomes a moral act *par excellence*, an efficacious sign of rational freedom. If it was not quite this before the Middle Stoic period it had become so in Seneca.[39]

Among issues on which Stoics differed among themselves, and drew in like-minded philosophers of other schools, was in their choice of criteria to decide when the room was too smoky. The most comprehensive concept was that of 'necessity'. Most philosophers agreed you could commit suicide under 'necessity'. We saw the expression in Plato's *Phaedo*, in connection with Socrates' enforced suicide. All later philosophical schools read it there too and adopted it as their own. Nowhere is the shared character of the philosophical tradition on suicide clearer: the 'necessity' theme is one going back to Plato and probably earlier.[40]

[38] Epictetus, *Discourses*, bk 1, ch. 25, §18, quoted by Rist, *Stoic Philosophy*, 251–3, who also quotes Marcus Aurelius' quotation of Epictetus' image in *Meditations*, bk 5, ch. 29; cf. Marcus Aurelius' comparable sentiments in *Disc.*, bk 8, ch. 47; bk 10, ch. 8; and Grisé, *Le suicide*, 219 and 222. [39] Rist, *Stoic Philosophy*, 247, partially qualified by Griffin, *Seneca*, 383.

[40] Griffin, *Seneca*, 369; above, n. 5. The continuity of certain elements in Greek philosophical tradition on suicide, including this one, is documented by Cooper, 'Greek Philosophers on Euthanasia and Suicide' (as in n. 5), 9–37, though not all readers will endorse the relative emphasis Professor Cooper gives them.

But necessity called for careful definition, and for the Stoics and their fellow-travellers further definition took two forms. One was that of a 'divine command' to kill oneself. This idea is found in Zeno, Epictetus, and several other philosophers (though, surprisingly, not in Seneca), and was widespread enough to have been taken over, probably unconsciously, by Augustine in the passage quoted in the last chapter.[41] Since divine command, like necessity, lacks objective definition, the other line of development sought to supply this need by itemizing circumstances which might justify suicide, a matter on which there could naturally be no general agreement. Writing on the Early and Middle Stoa, their historian Diogenes Laertius attributes to them a list of three legitimate occasions for suicide: the service of country, the service of friends, and intolerable sickness or mutilation.[42] A late commentator on Plato's *Phaedo*, Olympiodorus, would assert that the Stoics had listed five such occasions: a man could 'leave the banquet'—according to the Stoics in Olympiodorus' account—by reason of overwhelming necessity to keep a secret from a tyrant; madness (like a physical disease this involved no moral decision); incurable disease; and poverty—death being preferable to accepting help from rascals.[43] To these some added extreme old age.

The lists were bound to vary because each reflected *inter alia* the philosopher's relative evaluation of certain goods, real or apparent, like wealth, health, friends, and human society. For instance, Antipater, Cato's tutor, accused Cicero's friend Panaetius of undervaluing health and money,[44] while Cato himself was said to have absorbed only the ethical and political aspects of Antipater's teaching, as distinct from its philosophical core.[45] The list of occasions justifying suicide was thus bound to be distinctive from one philosopher to another. In so far as they reconciled their differences to a single formula they said that, to be worth clinging on to, life had to permit the exercise of freedom, in a way that incurable illness (for instance) might not; though even here disagreement on values was possible.

While on one hand the conditions justifying suicide were debated, on the other, Stoics joined Epicureans in their grudging half-respect for Plato's prohibition of suicide. Their respect, as well as being grudging, was given on different grounds from Plato's. For what the Stoics condemned was passion, alias emotion *qua* mistress of action, and this principle outlawed certain kinds of suicide. The rational man's choice must be deliberate. To kill oneself precipitately, or indeed with any unnecessary violence or publicity, was so

[41] Rist, *Stoic Philosophy*, 255; cf. p. 108 above. [42] *Lives*, bk 7, ch. 130.

[43] Quoted with comparable passages by M. Griffin, 'Philosophy, Cato and Roman Suicide', *Greece and Rome*, 33 (1986), 62–77 and 192–202, from *Stoicorum veterum fragmenta* 3, 768. Other lists of reasons: Rist, *Stoic Philosophy*, 239 and n. 2; Grisé, *Le suicide*, 182.

[44] Cicero, *De off.*, bk 2, §86; p. 107.16–19. [45] Plutarch, *Cato*, ch. 4, §1.

much irrationality and therefore to be condemned. More than one philosopher was criticized for having publicly burned himself to death on a pyre in alleged imitation (in some cases) of Indian holy men.[46] Stoic doctrine was here the inverse of a later position, influenced by Christianity, which pardoned the headstrong act more readily than one long premeditated. The praiseworthy Stoic act *had* to be premeditated. Conversely, the Stoic stance was similar, and at points possibly related, to certain Indian doctrines and to the *endura*, or ritual starvation to death, attributed to medieval European Cathar heretics. Within its own terms, and regardless of such parallels and contrasts, the Stoic depreciation of any other suicide than that which their values allowed proclaimed an appropriate vindication of the values. By committing suicide, at the right moment and in the right way, you could show beyond the possibility of contradiction what your values were. The integrity of a true philosopher was consummated if he died that way. He was literally a martyr, in the sense of a supreme 'witness' (Greek: *martyr*). This theme, too, would be further developed by Rome.

Stoicism in Roman Philosophy and Literature

While Greek Stoicism was entering its middle period, the vacuum left by Alexander's conquests was being filled from a different part of the Mediterranean world and on the basis of new political principles. By referring always to the Roman 'Empire' we describe it by what it became. The early conquests were made not by emperors but by a community of citizens, held together by a belief in their freedom and by a stern morality. The morality included a cultivated contempt of death. War without quarter or ransom (as for instance in the hyper-grisly narrative of Lucan's *Civil War*), political strife often murderous in its effects, homicidal games, birth control by infanticide, and a capacious list of capital crimes: all these form the stern environment which served as nursery to Roman moral values.

This morality nevertheless sought philosophical backing, and it acquired this backing when Roman conquest extended to the Hellenistic, philosophical east. The Roman republican élite then learned Greek, and exposed itself through that medium to Stoicism, which, in turn, rejoiced to find a Promised Land in late republican Rome. Stoicism did so all the more when the republicans bowed to the establishment of the principate (the 'Empire' proper), and allayed their loss of political status by accentuating the attention given to virtue. On the medieval literary inheritance, the effect of this particular

[46] Hirzel, 'Selbstmord', pt 3, 432–3, 456–8, 462 n. 2; and (on Proteus Peregrinus) Droge and Tabor, *A Noble Death*, 25.

change would be fundamental. For not only did the great Roman publicists Cicero and Seneca, contemporaries of the change, immerse themselves in the teachings of the Middle Stoics (especially Panaetius and Posidonius) and thereby incorporate Stoic doctrine into their own Latin writings. They also wrote in Latin, hitherto a vernacular and just then being catapulted into learned functions, functions hitherto filled by the universal learned language of Greek; and, unless the history of literature is deceptive on this point, a vernacular, when this happens, can attain a richness never afterwards equalled.[47]

Because Cicero's and Seneca's Latin could not be equalled it remained to be imitated, and in medieval grammar schools both Cicero and Seneca would become the canon of good Latin. That status alone would have guaranteed their moral influence. An international 'Roman' clergy had to know Latin, and the models they used could not but hammer aphorisms into their heads, infecting medieval clerks with a corresponding cast of mind. But there was a more substantive reason for the influence. Christianity took—is still taking—time to elaborate practical ethical doctrines. As the new religion from Palestine spread through the Roman Empire, Ciceronians and Christians looked at each others' texts and found much that was similar. 'Love your neighbour as yourself,' taught Christianity (Matthew 22: 37). 'Love for love's sake, not for utility,' proclaimed Cicero's *De amicitia*.[48] 'What will it profit a man if he gains the whole world,' taught Christianity (Matthew 16: 26). 'Despise fame and riches,' said Seneca—'Our Seneca', as the Latin Church Father Tertullian called him.[49] Jerome long stood where the two traditions converged, and was warned in a famous dream to beware of being 'Ciceronian, not Christian'. Nor was his experience the last, for anti-Ciceronian reactions have punctuated Christian history. Meanwhile, in the interstices, the two great Roman moralists smuggled their irresistible treasures into the repertoire of Christian ethics. The two most widely-copied ethical manuals of the earlier Middle Ages, St Martin of Braga's *Breviloquium* in the sixth century, and the *Moralium dogma philosophorum* in the twelfth, would consist largely of quotations from these Latin writers.[50]

Now suicide, as a free and reasonable act, was bound to present itself as a

[47] Documented, in respect of Lucretius in particular, by P. Boyde, *Dante Philomythes and Philosopher* (Cambridge, 1981), 1–40.

[48] Ch. 27 §100. Cf. E. Gilson, *The Mystical Theology of St. Bernard* (London, 1940), 10–11, for the influence of Cicero, *De amicitia*, ch. 5, on St Bernard's exposition of the last chapter of the Rule of St Benedict (ch. 73).

[49] *De anima*, ch. 20, §1, quoted by G. M. Ross, 'Seneca's Philosophical influence', in C. D. N. Costa, ed., *Seneca* (London and Boston, 1974), 116–63, on p. 126.

[50] C. W. Barlow, ed., *Martini Episcopi Bracarensis Opera Omnia* (New Haven, Conn., 1950); J. Holmberg, ed., *Das Moralium dogma philosophorum des Guillaume de Conches* (Uppsala, 1929).

subject of Stoic doctrine, and of that of the Roman moralists nearest to that school, Cicero and Seneca. Of the two, Cicero is harder to associate with a single position, not least because he often wrote in dialogue form and placed opinions in the mouth of a character without binding himself to agree. But there were passages in Cicero's *De officiis*, *De finibus*, and the *Tusculan Disputations*, to name only those, distinctly permissive of suicide. Furthermore, one passage, in *De officiis*, says men should consult their individual natures in making moral decisions, with the result that sometimes it is fitting that one man should take his own life and another not, even in identical circumstances.[51] Another passage in the same work recommends solitude to the wise man for better contemplation but adds that if the solitude were such that he never saw another human being, 'he should depart from life'.[52] There are other expressions of this kind in both Cicero and Seneca.[53] None of them, let it be said, would turn up in the widely-used twelfth-century compendium *Moralium dogma philosophorum*, large though the debt of that work was to both Roman writers, especially to Cicero, and to *De officiis* in particular.[54] Medieval scholars with good libraries nevertheless had direct access to most of these works by Cicero, and, more important, to most of those of Seneca, whose apologiae for suicide can be positively effusive. No one can be surprised that it should be in a twelfth-century commentary on Seneca that the word *suicidium*, as a derogatory word for what Seneca praises, should first have been coined.[55]

Taken on their own, and free from any question of medieval influence, the philosophies of Cicero and Seneca have a common Roman stamp which distinguishes them jointly from their Greek sources. For instance, both emphasize political liberty more than do their Greek teachers. Cicero is also more ethically 'social', as in the second of the two passages quoted in the last paragraph; or as in another which includes among reasons for *not* killing oneself, possible injury to friends.[56] As for Seneca, his interest in suicide led him to write more on the subject than any other ancient philosopher, in passages scattered so freely in his writings as to have suggested that this was a personal preoccupation—whether or not provoked by chronic illness, or by the precariousness of life under Nero.[57] But Seneca's interest in suicide also draws from

[51] *De officiis*, bk 1, ch. 31, §112. Cf. M. Lapidge, 'The Stoic Inheritance', in Dronke, ed., *Twelfth Century Western Philosophy* (above, n. 22), 81–112; 92–3, 94–7.

[52] *De off.*, bk 1, ch. 43, §153. [53] Grisé, *Le suicide*, 194–202.

[54] Holmberg, *Das Moralium*, identifies Ciceronian (and other) sources in his notes, making this assertion easy.

[55] *The Violent against Themselves*, 38. On the direct reading of Seneca: Lapidge, 'The Stoic Inheritance', 93–8; and K.-D. Nothdurft, *Studien zum Einfluss Senecas auf die Philosophie und Theologie des zwölften Jahrhunderts*. Studien und Texte zur Gestesgeschichte des Mittelalters, 7 (Leiden and Cologne, 1963).

[56] Grisé, *Le suicide*, 199. [57] Ibid., 206–7.

the common Stoic double root. While Seneca resembles Cicero in his inclusion among 'duties', paramount in moral conduct, the consideration of possible injury by suicide to a friend,[58] he is even more Roman in his supreme evaluation of liberty. In respect of suicide, Seneca's emphasis on liberty is so great as to turn Plato's doctrine upside down. Whereas to Plato, life was a divine gift which it was impious to reject, to Seneca, the divine gift consists in the freedom to *end* one's life. This draws Seneca—or at least an eloquent character in one of his plays—to state the apparently paradoxical position that to prevent someone killing himself is worse than to kill him: for it deprives him of this divinely given freedom. This latter is an internal freedom even possessed by slaves unfree in all other respects, and who can show and acquire their liberty by this efficacious sign alone.[59]

In identifying the most noble kind of suicide, both Cicero and Seneca naturally recurred to examples, since both were orators, politically oriented philosophers in the Roman style, and as such knew and employed Roman history. By doing so they illustrate the ricochet effect that joined the fortunes of classical history and philosophy. In the matter of suicide, there were numerous historical instances for the philosophers to feed on. In a recent count, the number of individual completed suicides in ancient Greek and Latin literature—to set against the biblical eight or nine which began the last chapter—comes to nearly 500, excluding collective suicides, which would take numbers well into the thousands. Many of the more celebrated suicides of antiquity would be elaborated by medieval poets—the forsaken Dido, Cleopatra with her asp, the hanged Jocasta, mother of Oedipus, and others. But the moral philosophers, for their part, were interested above all in two cases, supposedly historical: those of Lucretia and Cato. Both were Roman, both were martyrs to moral principle, personal in one case, political in the other. If St Augustine paused to castigate Lucretia and Cato, as we saw him doing, this was because of the high regard in which they had long been held by Latin culture, a regard which, in the context of that culture, lasted deep into the Middle Ages.

Lucretia's story was told most fully by Livy, the resemblance of much of whose history to myth is now recognized, and warns against reading too

[58] *Epistulae morales*, Epist. 104, §§3–4; ed. L. D. Reynolds, vol. 2 (Oxford, 1965), p. 434–5. Other references: Grisé, *Le suicide*, 209.

[59] *Phoenissae*, lines 98–102; 'Qui cogit mori / nolentem in aequo est quique properantem impedit; [Occidere est vetare cupientem mori] / Nec tamen in aequo est: alterum gravius reor: / mihi malo imperari quam eripi mortem.' Cf. *Epistulae morales*, Epist. 77, §7 [p. 246.15–16]: 'alioqui tam mali exempli esse occidere dominum quam prohibere'. Other references to the same sentiment in Seneca: Grisé, *Le suicide*, 217–18. Not untypical of the unexpected places this Stoic sentiment can turn up in is St Ambrose's version of the virgin suicide of St Pelagia, *De virginibus*, bk 1, ch. 7 [*Pat. lat.*, 16, 229–32], where Pelagia says [col. 230A]: 'Ille magis est vis, mori velle, nec posse.'

much into the precise date that can be fixed for the associated events.[60] But the date, for what it is worth, was 509 bc. According to Livy's account, Lucretia, the chaste wife of the Roman citizen Tarquinius Collatinus, was raped by Sextus, one of the sons of Tarquinius Superbus, Etruscan king of Rome. After telling her husband of the outrage, Lucretia killed herself with a dagger, declaring she would rather be dead than dishonoured. The husband allied himself with the king's nephew, Junius Brutus, to provoke a rebellion against the royal house, which was expelled from Rome and replaced by a Roman republic, in which Tarquinius Collatinus and Junius Brutus became the first consuls. The semi-mythical quality of this foundation story only embedded it more deeply into Roman consciousness as Rome came to dominate the world and, no less, as it ceased to, for the story encapsulated Roman ideals: for a woman, chastity; for a man, liberty; for either (if the ideal was impugned), suicide.

That a man, for his part, should prefer suicide to the dishonour of political servitude is only implicit in the story of Lucretia, but was made explicit in a second story known to every educated person in the Rome of the Stoics. This time the story is more confidently datable, to 46 bc. This was the date not now of the birth, but of the death, of the Roman republic, with whose idealism the second story has an almost identical connection to the one the first had with the republic's birth. Cato of Utica, great-grandson of the unbending moralist and statesman Cato the Censor, became embroiled on the republican side in the civil wars which ended by subjecting Rome to Julius Caesar. Rather than surrender to a man he saw as a tyrant, Cato killed himself, preferring death to what he considered an intolerable compromise.

Plutarch's *Life*, the longest of the historical sources on Cato's career, dwells on every detail of the suicide.[61] Refusing concessions offered by an emissary and kinsman of the conqueror, Cato recommmended his son and others to their protection but declined it for himself, and privately resolved to kill himself that night. Over dinner Cato discussed Stoic and Peripatetic philosophy with his guests. (That he mingled the two Schools easily underlines my earlier remarks about the common character of philosophical attitudes to suicide.) Cato's stance and manner, and the warmth with which he embraced his son after dinner, aroused onlookers' suspicions, and they removed his sword. At first Cato did not notice. He lay down alone in his bedroom to sleep, reading Plato's dialogue *Phaedo* on the immortality of the soul. Then, looking up, he saw his sword had gone, and summoning his servants he told them to bring

[60] *Ab urbe condita*, bk 1, ch. 57 §6 to ch. 59 §13. Livy as historian: P. G. Walsh, *Livy* (Cambridge, 1961), esp. chs 2 and 4. Resemblance to myth: G. Dumézil, *La religion romaine archaïque* (Paris, 1966), esp. 72–88.

[61] *Cato Minor*, chs 68 §1 to 72 §2.

it back. They prevaricated until, eventually, Cato struck one servant in the mouth and obliged him bring it. When the sword came, Cato felt the point, found it sharp and said—true to the philosophy soon to be expressed by Seneca—'Now I am my own master.' Meanwhile Cato got a physician to dress his hand, wounded by the blow to his servant. That temporarily reassured bystanders. Alone once again in his chamber, however, lying on his bed as if to sleep out the rest of the night, Cato took his sharp sword and stabbed himself below the breast. The previously contracted wound in his hand robbed the blow of full effect. Cato merely fell unconscious from the bed, knocking over a small table. The noise brought his son and friends, who found the great man weltering in his blood, intestines protruding, but alive. The physician was brought, restored the body to the bed and sewed up the abdominal wound. But as soon as Cato came a little to himself he pushed away the physician, tore open the wound and plucked out his own intestines. He died at once. Caesar, on hearing the news, recognized that Cato had deprived him of what would have been a politic gesture, that of pardoning him. (More than a politic, it would have been a regal gesture—presumptuously regal—of a kind which it may have been the very purpose of Cato's suicide to prevent.)

Scarcely two years later, Cato's son-in-law, Brutus, would deprive Caesar of his own life. For Porcia, Brutus' wife and fellow-conspirator on the famous Ides of March, was Cato's daughter, and Brutus was Cato's ideological heir. Like the story of Lucretia, at the début of the republic, that of Cato, at the end, shares the domestic character of myth. Their sex and violence expressed a complete moral and political economy, and one happening entirely within the family circle. Like a myth, each story forms its own commentary, each being a commendation of stern morality and of honour in the service of a republic. Nor is the republican attachment accidental to either episode. Morality is republican. Unlike slaves to a tyranny, who cannot afford their own moral values, free citizens *must* have a code. It was the survival of this code that allowed even the Emperors to boast that they ruled over free subjects. Both stories, therefore, of Lucretia and Cato, lodged deep in the consciousness of Rome as, after Cato's death, Rome came to dominate the world. Nor did they stick there less stubbornly as Rome lost its domination in the early fifth century, and its devotees had nothing but old myths to feed on.

Cato's daughter, Porcia, and his son-in-law, Brutus, would both die by suicide, as did many more Roman heroes. The list is long. Our medieval moralists would nevertheless be considering Roman history from a distance. Historical narrative, like biblical, implies value, and people remember those figures from the past whose memories still mean something to them. It was because medieval moralists were still half in love with Stoic values that they chose these two, Lucretia and Cato, as paradigmatic martyrs, high above all

others, to the personal and political virtues to which, as latter-day Romans, many medieval people still aspired.

Neoplatonism

The passing of Roman Stoicism

The foregoing pages have tried to show that what we call Stoicism both came into being and passed into Roman culture in response to long-term political shifts. The same was true of its decline. A political structure fitted for an expanding empire will not serve to defend its frontiers once they have expanded, because neighbours grow envious and learn the techniques that once subdued them. When this happened in the Roman Empire in the third century, the Empire's structure responded by turning inside out. Soldier Emperors moved their headquarters to the frontiers, while Rome, nucleus of the former explosion, became a half-empty shell, politically peripheral though still geographically at the centre. This meant, *inter alia*, that Rome's great families, although still sitting on their lands, were no longer at the heart of political affairs. On classical culture, this had two effects. The direct one was that the bearers of that culture nostalgically nourished memories of Roman glory, including (of course) memories of the Lucretias and Catos who had built it—which is why St Augustine knew the stories so well and argued as if everyone else did. The temples of this cult, the Italian schools of rhetoric, therefore pored over Roman history with an almost religious fervour.

But the turning inside out of the Empire had a second, indirect effect on culture. The centrifugal shift of power from Rome to the frontiers was accompanied by a social change, with its own cultural consequences. The soldiers who defended the late Empire were not from the old dynasties, but increasingly professionals, who brought to their high status little more than the expertise in survival which had raised them. One consequence was that they lacked the ideological ballast—and fine Latin—of their social superiors. This freedom from old ideology made them more open to a new one, and it is no accident that it should have been among such professionals, from Constantine downwards, that Christianity made its most conspicuous inroads. The semi-legendary soldier converts of the middle ages—Saints Maurice, George, and Procopius—have this much solid history behind them.[62]

In the end, as we know, the old aristocracy would become as Christian as

[62] J. Matthews, *Western Aristocracies and the Imperial Court, A. D. 364–425* (Oxford, 1975). The semi-legendary converts: H. Delehaye, *Les légendes hagiographiques*, 5th edn (Brussels, 1955), 57–100, 104–5, 137–8.

anyone else, and more so: Saints Ambrose, Paulinus, Leo the Great, and Gregory the Great all came from its ranks. But there is a darkness before dawn, and in the fourth century—the century in which Constantine died and St Augustine was born—birth into a senatorial family brought with it a challenging cultural equivocation, an ambivalence quite as threatening in cultural terms, in fact, as the military attacks puncturing Roman frontiers. The marriage of Roman discipline and Greek philosophy, everyone knew since childhood, had created the greatest empire in all history. But now Emperors—no less—were heading a stampede into a strange religion. To Romans with their discipline, Christianity spelt defiance; to Greeks with their philosophy, a stumbling block. The cultural collapse of the old Roman Empire was palpable.

One response was to cling to the old philosophy and adapt it to match its competitor. The philosopher could keep his high rank—and his beard—but must adjust his doctrine. Philosophy could acquire the advantages of Christianity but without Christian follies. This was the change that formed the bridge between Stoicism and Neoplatonism. The two schools were not (as their different nomenclature implies, again misleadingly) watertight compartments, but two areas with much in common between them and slightly different centres. About the middle of the third century, the centre of gravity of intellectual fashion started moving from one to the other.

This move was bound to affect the philosophic approach to suicide. Neoplatonism was more otherworldly than Stoicism. This fact ended the compulsion by which conditions in life on earth, as interpreted by conscious reason, could argue a man into killing himself. It was not so much that authority was restored to Plato's Pythagorean gods, whose gift of life must be respected. It was more that a characteristically Neoplatonist metaphysic of spirit and matter found a new compulsion, as strong as anything in Stoicism, for *never* committing suicide. For the psychological axis had meanwhile also shifted. Philosophy had become more contemplative, less active. It is true that there could be quietistic Stoics like Marcus Aurelius, and highly practical Neoplatonists like the young Plotinus (who had served in the army). But the heart of Neoplatonism stood to the heart of Stoicism as contemplation stands to action, and that shift necessarily told against suicide. The reasons for that happen to be similar to those later to be adduced by Durkheim for explaining the high incidence of suicide among the military. Accustomed to decisive action according to a sharply differentiated code of right and wrong, a soldier (said Durkheim) may face circumstances which seem to leave him 'no other way out'.[63] Appropriately to its Roman milieu, Stoicism likewise

[63] Durkheim, *Suicide*, 228–39.

exposed its devotee to circumstance. An essentially active morality depends for its exercise on certain worldly contingencies like physical health or political rank. For the Stoic there is an 'if', and some 'ifs', by blocking the way to the possible exercise of practical virtue, lead inexorably to suicide. The Neoplatonist ideal, on the other hand, lay in the attainment of a higher state of consciousness by purification of the soul. All *that* needs, if the understanding and the will are in order, is consciousness. Ill health and poverty can make no difference, since they are just so many more external circumstances, like tyrants or natural disasters. Virtue can survive them. Indeed, for reasons to be seen, virtue must devote all its endeavours to doing so.

Resonances of this new direction in philosophy can be found far outside the circles of recognized philosophers. They are there, for instance, in the Emperor Julian the Apostate (332–363; Emperor 360–3), who made a principle of opposing the new Christian religion yet, like it, strongly deprecated suicide. They are there, too, in Julian's fellow-soldier and administrator, the chronicler Ammianus Marcellinus (*c.*330–395), who shared both Julian's paganism and his distaste for suicide.[64] As with most articulate moral stances, however, philosophy was the home of this one, and the new cast of mind is clearly discernable in the leading Platonist philosopher, Plotinus, (who died in ad 270), and in his pupil and biographer Porphyry (who died about thirty-three years later). That the works of neither Plotinus nor Porphyry entered directly into the medieval canon was only partially due to their being written in Greek, for there were early translations of both, read by St Augustine among others. But not all that Augustine read was suitable for the faithful at large, and, read *en bloc*, any work by either Plotinus or Porphyry contained too much that was non-Christian, even anti-Christian, to be recommended. None of this stopped late Roman aristocratic intellectuals from learning some of their doctrines from these Neoplatonists. Augustine was only one example, and from a medieval viewpoint not even the most important one. That high status belongs to an approximate contemporary of Augustine's, read less than he was in the Middle Ages but certainly read. He was called in his own time Macrobius Ambrosius Theodosius, and in the Middle Ages just Macrobius.

Macrobius and his *Commentary*

That Macrobius, last in our parade of ancient pagan philosophers, belonged to the same intellectual aristocracy I have just referred to, is one of the few facts known with certainty about him. Not many medieval scholars would

[64] Hirzel, 'Selbstmord', pt 3, 468, for both examples.

read Plato's *Phaedo*. (As it happens, Macrobius had almost certainly not read him either.) But the conduit that led from Plato to Macrobius, though devious, was straight enough to make Macrobius the main direct source for medieval readers of those Platonic reservations on suicide. For Macrobius they *did* read. A few medieval scholars knew his *Saturnalia*, an imaginary 'Christmas Party' *à la* Plato's *Symposium*, which reveals what literary—and to some extent actual—company Macrobius kept, and in particular reveals his strong loyalty to classical Latin tradition (one which, among other things, exalted Virgil as the Roman prophet *par excellence*). It was nevertheless Macrobius' other surviving work that became the best-seller (in so far as that term can be given to a text common in medieval scholarly libraries), being studied and quoted as an encyclopedia of late ancient learning by most of the famous scholars: Boethius, Cassiodorus, Isidore, Bede, and so on, by way of the Carolingians right through to Aquinas.[65]

The book in question was probably written just after 425, significantly close to the years when Augustine was writing *The City of God*. Its title is to modern eyes at first perplexing: *Commentary on the Dream of Scipio*. The Scipio at issue—at least a dozen Scipios adorned republican Roman history—was the younger Scipio Africanus, who had died in 129 bc. That was both late enough, and soon enough, for Scipio Africanus' idealization by Cicero, two generations later, as a model of the military and philosophical statesman. (Scipio had in fact both won battles and been interested enough in philosophy to be another personal friend of the Stoic Panaetius.) In Cicero's *Republic*, a dialogue loosely modelled on that of the same name by Plato, Cicero cast Scipio both as the pivotal character and, at the end of the last book, as a vehicle for what may have been some of his own religious presentiments.[66]

Cicero does this by the device of a dream. Scipio tells his guests how once, while visiting an old ally in Africa, he had fallen asleep and dreamt that he met, high up in the sky, his dead grandfather (by adoption) Scipio the Elder. 'Are you not dead?' the dreaming younger Scipio naturally asks. His grandfather replies with the paradox—its literary ancestry in fact goes back to

[65] Identification: J. Flamant, *Macrobe et le néo-platonisme latin, à la fin du iv^e siècle*. Études préliminaires aux religions orientales dans l'empire romain, ed. A. J. Vermaeseren, vol. 58 (Leiden, 1977), pp. 96–141; A. Cameron, 'The date and identity of Macrobius', *Journal of Roman Studies*, 56 (1966), pp. 25–38. The *Phaedo*, see pp. 123–5 above; probably unread by Macrobius: Flamant, 592. *Saturnalia*, Flamant, 17–95. Medieval readership: A. Hüttig, *Macrobius im Mittelalter. Ein Beitrag zur Rezeptionsgeschichte der Commentarii in Somnium Scipionis*. Freiburger Beiträge zur mittelalterlichen Geschichte, vol. 2 (Frankfurt, Bern, and Paris, 1990). I hope my debt to Flamant will be obvious from the following footnotes but I have ventured to adjust his characterization of Macrobius' relationship to other philosophers in respect of suicide. See above, p. 88, n. 1, for his summary of ancient philosophers' views, a judgement modified by all the more recent studies of the subject.

[66] Dating: Flamant, *Macrobe*, 136–41. Cicero, *De re publica*, bk 6, chs. 9–26 [Loeb edn, 260–83].

Euripides—that those are truly alive who *seem* dead to men on earth, because the so-called dead have escaped from corporeal bonds as from a prison; while what is *called* life on earth *is* really death. The whole conversation takes place among the stars from which the earth, as if to underline the point, looks small, the horizontal strip of the Roman Empire even smaller. (Later readers of this passage, *via* Macrobius, may have included Dante, who calls on this image in *Paradiso*.)[67]

Scipio the Elder's intellectual assurance of his grandson is at once given an emotional dimension by the arrival of Paulus, the young man's own father, dead for ten years at the imagined date of the dream. The younger man cannot restrain his tears until his father, embracing him, austerely tells him to do so. On recovering speech the younger Scipio at once makes an obvious suggestion. If death is really life, and life really death, should he not join his dead relations in heaven by 'hastening' thither? This proposal of suicide draws from Paulus some fourteen lines of explanation why suicide is wrong.[68] It concisely echoes Plato. Unless God ('look round you at his temple, the stars') frees him, a man is not allowed to leave his earthly bondage. Men are put on earth to look after it (*ut tuerentur*). Scipio Junior, therefore, Paulus concludes, like all right-minded people (*piis omnibus*), must keep their souls in the custody of their bodies, not leaving them without divine command 'lest you seem to shirk the gift made to you by God'.[69] The rest of the dream, which occupies twelve printed pages, is about the heavens, described both cosmologically and as the abode of spirit—required reading, events were to prove, for early medieval scholars with a scientific bent.

In the fourteen lines on suicide, Cicero here articulated a doctrine which did not, as we have just seen, represent the balance of other views he expressed on the subject. Because he chose the dialogue form, reinforced in this case by the additional device of a dream, it is hard to tell what Cicero himself thought. The facts remain that here, in Book VI of the *Republic*, Cicero articulates a thorough and reasoned condemnation of suicide, if one tem-

[67] Death = life: P. Courcelle, 'La postérité chrétienne du "Songe de Scipion"' (see n. 8), 205–9. (Courcelle wrote before Cameron and Flamant had given grounds for a redating from *c.*380 of Macrobius' Commentary to *c.*425.) The earth a point: *De re publica*, bk 6, chs. 16, 19, and 20; cf. Courcelle, 220–1; in Dante: *Paradiso* 22: 133–8. Macrobius in Dante: G. Rabuse, 'Macrobio', in *Enciclopedia Dantesca*, 2nd edn. vol. 3 (Rome, 1984), 757–9.

[68] *De re publica*, bk 6, ch. 15, pp. 266–7. The explanation begins on p. 266.16: 'Quaeso, inquam, pater sanctissime atque optime, quoniam haec est vita, ut Africanum audio dicere, quid moror in terris? Quin huc ad vos venire propero?—Non est ita, inquit ille, nisi enim deus is, cuius hoc templum est omne, quod conspicis, istis te corporis custodiis liberaverit, huc tibi aditus patere non potest . . .'

[69] Ibid. [line 29]: 'quare et tibi, Publi, et piis omnibus retinendus animus est in custodia corporis nec iniussu eius, a quo ille est uobis datus, ex hominum vita migrandum est, ne munus humanum adsignatum a deo defugisse videamini'. *Munus* can mean 'office', 'function', 'favour', or 'gift'.

pered by Paulus' final, oblique allusion to divine command; and (secondly) that, thanks largely to Macrobius, the text of the *Dream* would be among Cicero's best-known works before the Renaissance.

For comment on Cicero's *Dream*, we turn then to Macrobius, who wrote 500 years after Cicero and at the opposite end of the Latin classical tradition. The first thing we should notice is that Macrobius chose this text. He could have chosen any text for comment and he chose this one, picking from the *oeuvre* of the most prolific of Latin stylists the short coda of a single work. The choice was not only Macrobius' own. One other contemporary commentary on the *Dream*, and some scattered literary references, show that Macrobius' interest in the *Dream* went with the grain of his contemporary culture. Macrobius' inversion of priorities is therefore itself a historical document, showing the distance Roman thought had travelled since Cicero, as Stoicism had by stages been transmuted into Neoplatonism. Now, around 425, a Latin-speaking nobleman, jealous of his language and its tradition in a learned world long since reverted to Greek, picked on the most Platonistic point in Cicero's writings, to make that the occasion for a résumé of current Greek philosophy.[70] This included an exposition, in Latin, and in a work destined for a substantial medieval readership, of the most radical condemnation of suicide available to scholastic theologians.

Macrobius' arguments against suicide

Makers of résumés rarely make them without leaving on them some stamp of their own cast of thought in the selection and treatment of material. This applies to Macrobius' pages on suicide. Like the *Commentary* of which they form part, these pages extend to about eight times the length of the original on which they comment.[71] The commentary starts by identifying the *Phaedo* as the source for the ideas in Paulus' speech. Macrobius then goes on to retail what he alleges to have been Plotinus' views on suicide. Fortunately we have some independent knowledge of what these were. Plotinus had written a short treatise *On Removing Oneself Rationally*, now lost, but summarized by a commentator. Plotinus had also returned to the subject more briefly in various passages in his collected philosophical essays, the *Enneads* (the 'Nines', called so by their collector, his pupil Porphyry, who grouped them thus), and in particular at the end of the first book, *Enneads* I, 9.[72]

[70] Macrobius and Greek learning: Cameron, 'The Date and Identity of Macrobius', 36; M. as 'vulgarisateur, un amateur plus ou moins éclairé', Flamant, *Macrobe*, 9.

[71] *Commentum in Somnium Scipionis*, bk 1, ch. 13; ed. J. Willis. Teubner 2nd edition (Leipzig, 1970), 51.18–55.10. On Macrobius' treatment of his material, Flamant, *Macrobe*, 6–7.

[72] *Peri eulogou exagoges*, cf. Hirzel, 'Selbstmord' pt 3, p. 467 n. 2; Droge and Tabor, *A Noble Death*, 39–41; Flamant, *Macrobe*, 590.

Like Cicero's views on suicide, those of Plotinus, scattered likewise through the author's writings, seem on the face of them equivocal. The emphasis is nevertheless different in that Plotinus was more firmly against it. In his lost treatise on the subject Plotinus had formally rejected the 'five ways' through which the Stoics said suicide could be justified (see p. 135 above) and this was his drift elsewhere too. The arguments Plotinus invoked were those of Plato and the Pythagoreans: 'a man must not desert his post'; 'God does not leave off taking thought for us'; 'each man has a destined time allotted to him [which he must allow to elapse].'[73] But Plotinus, for his part, while quoting these old principles, would keep adding qualifications like 'unless necessary' or 'until God sends some necessity', qualifications which left ajar the same door as the Paulus of Cicero's dialogue, with Paulus' implication—by the choice of that term *iniussu* ('without a command')—that one might receive a command to commit suicide. In one place Plotinus even opened the door an inch further. For he expressly allowed incurable illness or madness to be rational grounds for suicide. Although the door against suicide was closing, in other words, Plotinus, like Cicero, was not wholly consistent, and most critics have detected in him an attempt to compromise with the Stoics. For twenty-five years, after all, Plotinus had lived by taking pupils in Rome, and he could not overturn all they believed in at once.[74]

Not all Plotinus' pupils, however, had a Roman background. One was Syrian. This was Porphyry, who became Plotinus' editor and biographer and whose own suicidal feelings (Porphyry himself recalled later) were cured by his master's persuasion. About ad 300, Porphyry wrote a spiritual treatise called *The Return of the Soul*, which is lost but is partially known through quotation. Like Plotinus, Porphyry wrote in Greek, but although a Latin translation of *The Return* had in fact been made *c.*350 (and was read by St Augustine, who hardly knew any Greek) Macrobius did not need the translation, since he could read Greek easily. It is fairly certain that the doctrines on suicide which Macrobius attributes to Plotinus, and indeed to Plato, were quarried directly from Porphyry's treatise, which enclosed the other two authors like a Russian doll.[75] The effect of this choice was to give one last nudge to the door that Platonism had nearly closed on suicide, and shut it.

[73] Droge and Tabor, *A Noble Death*, 41.

[74] Flamant, *Macrobe*, 590; Droge and Tabor, *A Noble Death*, 41–2. J. B. Rist, *Plotinus* (Cambridge, 1967), 173–9, argues that while Plotinus acknowledged these considerations as open to the rational soul he thought the soul should always reject them. Consensus on this point has not been achieved, but the difference remains slight.

[75] Flamant, *Macrobe*, 588; ibid., 585–93 for the delicate question of Macrobius' sources. That he read Porphyry in Greek: ibid., 591 n. 91. Flamant describes Macrobius' doctrine as 'more rigorous' than Plotinus' on p. 592.

The arguments which have this effect can be briefly rehearsed. Macrobius writes that there are two kinds of bodily death. One should be sought, the other merely accepted. The former is that of the philosopher who 'dies' to bodily passions; the latter, the death of nature, which should *not* be sought. Macrobius attributes all this directly to Plato who, he says, built his prohibition of suicide on:

> reasons taken from everyday experience. For [Plato] says that persons imprisoned by a political authority may not escape before that authority allows them to go. To escape by stealth, Plato says, does not lessen but increases subsequent punishment. We are in the gods' power, Plato adds, and are governed by their care and providence. No item of a lord's possessions, after all, should be removed against that lord's will from the place where he has put it; and just as it is a crime to kill another man's slave, so he who tries to end his life before the lord has commanded will not be forgiven but condemned.[76]

What Macrobius presents as Plato's metaphors had in fact been altered and added to since Plato's time: the *potestatis imperium* (imperial power) is characteristically Roman, although this and the 'slave [*mancipium*]' are recognizable as authentic Platonic legacies. It is at this point that Macrobius introduces Plotinus, who 'followed these Platonist doctrines', Macrobius alleges, and he assigns to Plotinus a distinctively Neoplatonist argument against suicide.

This one really *was* in Plotinus, and is all-important in Macrobius' commentary. The argument touches the purity of the soul, and insists that a man's soul should be found, on death, free from bodily passions. This freedom entails that:

> the soul violently thrust from the body cannot be thus free. For whoever seeks out death by his own volition does so either through disgust with life's difficulties, or through some fear or hatred, all of which are among the passions. Even if his soul was previously free of such stain, therefore, it would be soiled by the very fact of being violently snatched away.[77]

The soul *cannot* be forced from the body, Plotinus' case runs, for any attempt to do so will bind it even closer. So far, Macrobius has followed what we know to have been Plotinus' teaching, but he clinches the case by a reference noticeably absent from the source to which he assigns it. For Macrobius goes on:

[76] *Comm.*, bk 1, ch. 13, §§7–8 [pp. 52.30–53.7]. For the fortunes of Plato's analogy with the *phroura* ('watch' or 'prison'): Courcelle, 'Songe du Scipion', 227 n. 1.

[77] *Comm.*, bk 1, ch. 13, §9; p. 53.10–15. On the character of the argument, Flamant, *Macrobe*, 590f, 594.

And indeed [*re vera*], that is why souls thus torn from their bodies linger round their place of burial or the place where they killed themselves.[78]

In today's idiom we might say they 'cannot get away'. A suicide's last act of passion weighs him down. Pure souls, meanwhile, freed by philosophy, rise straight to heaven.

To his edited exposition of Plotinus' teaching Macrobius adds one last, this time authentically Plotinian doctrine. Since the aim of life is to purify the soul, death should not be sought while there is still opportunity for more purification. 'You may say,' Macrobius allows, 'that the soul already perfectly pure may kill himself, since there is now no reason for him to stay.' In the Christian Middle Ages that idea of 'a perfectly pure soul' was destined to get its adherents into serious trouble. But Macrobius was not a Christian, and—probably following his lost source—he answers the objection with the same Plotinian principle, though it is now more fragile. That is, to kill oneself in the hope of beatitude is still to obey passion, 'for hope, like fear, is a passion, and incurs all the consequences mentioned in my earlier argument'.[79]

Macrobius never, in these pages, mentions Porphyry, yet Porphyry was assuredly the source for Macrobius' radical rejection of suicide. Macrobius does, once, anonymously, mention 'the secret teachings of *The Return of the Soul*' (the title of Porphyry's lost book).[80] But we may wonder why Macrobius kept its author secret and preferred to attribute all he says to Plotinus, whom he names twice, and as if Plotinus were in total agreement with Plato. The answer must lie in literary reputations. For his contemporaries as well as for Macrobius himself it was Plotinus, not Porphyry, who had the greater renown. (It may be significant that Macrobius called his own son 'Plotinus'.) Everything suggests, therefore, that Macrobius was name-dropping, and chose the name of Plotinus to add credit to the message of his Commentary. For the message mattered. As Macrobius himself spells it out:

The difference between ending one's life naturally, or by one's own volition, is no slight one.[81]

The unconditional prohibition of suicide must therefore have the best authority, even if it meant literary sleight of hand, a sleight of hand which, besides the dropping of Porphyry, lay in the fact that Macrobius made Plato, Cicero, and Plotinus all say the same thing. The harmony of Platonic tradition, after all, was a Neoplatonist axiom: they had to agree, even if that meant minor

[78] *Comm.*, bk 1, ch. 13, §10; p. 53.10–20; in Porphyry but not in Plotinus: Flamant, *Macrobe*, 591. The reference to wandering souls does, however, echo Plato's *Phaedo*, §81CD.
[79] *Comm.*, bk 1, ch. 13, §17; p. 54.29–30. Cf. Flamant, *Macrobe*, esp. 589–90.
[80] *Comm.*, bk 1, ch. 13, §16; p. 54.16–17.
[81] *Comm.*, bk 1, ch. 13, §13; p. 54.5–6; cf. Flamant, *Macrobe*, 589–91.

adjustments in the record. With those adjustments, the door on suicide, long ajar, was shut tight, and on unimpeachable philosophical authority. There was no more to be said:

> From the pronouncements of Plato and of Plotinus, as set out here, nothing will remain obscure in the words by which Cicero forbids voluntary death.[82]

Macrobius' commentary was at first circulated only among friends and family, and may have stayed in that milieu. Three generations later, however, the family of one friend was to include the famous Boethius. At the very beginning of the sixth century, Boethius would be the first author to quote from the Commentary, and Boethius also had Macrobius' commentary in mind when writing *The Consolation of Philosophy*.[83] To describe Macrobius' subsequent entry to the medieval philosophical canon as triumphal would be misleading. Any serious Christian divine was aware that his *Commentary* had dangerous themes, and the more sensitive decried it for this reason, so that even those who quoted it usually did so with a restive conscience.[84] A book can nevertheless be loved for its good parts. The *Commentary*'s summary of late Greek cosmology recommended it to many learned medieval libraries, and once there, it lured its medieval readers into wider philosophical pastures, offering them, sheltered in its pages, a doctrine on suicide more radical even than that of St Augustine; more radical and, for some, as will be seen in due course, irresistible.

Of the three colours to our lithograph of ancient thought on suicide as bequeathed to the Middle Ages, two have now been printed. It is time to print the third.

[82] *Comm.*, bk 1, ch. 13, §20; p. 55.9–10.

[83] Boethius' and Macrobius' families: Flamant, *Macrobe*, 136–7; 689; Cameron, 'The Identity of Macrobius', 25–6, 37. For Boethius' use of the *Commentary* see also Courcelle, 216–23, esp. 221–2; and the edition of *De Consolatione* by L. Bieler (Turnhout, 1984), 114.

[84] See Lactantius, *Inst.* 3, 19, 12, for an anticipated condemnation of one theme; and cf. William of Conches as quoted by Flamant, *Macrobe*, 692.

5

Law

In the thirteenth century a 'Doctor of Both Laws' had qualified in civil and canon law. The substance of the former, commonly referred to now simply as Roman law, was contained in the *Corpus iuris civilis*, the 'Body of Civil Law', a collection of legal texts compiled under the Emperor Justinian (526–565) and rediscovered in Italy *c.*1050. The substance of canon law, put together gradually in antiquity and the early Middle Ages, was collected and systematized in Gratian's *Decretum c.*1140. Augmented, mainly by later papal decisions, it took its senior's title and was called the *Corpus iuris canonici* by the middle of the thirteenth century. Together, apart from pockets of written law of local significance, these two bulky *corpora* constituted medieval learned law, and both gathered a mass of commentary.

The apparent symmetry between the 'two laws' in the thirteenth century, and the influences that by then each had begun to exert on the other, hides big differences between them. Their doctrinal centres of gravity were separate, one in the Empire with its 'prince', the other in Christ and the Church. Confrontation between the two was common enough to keep the public aware of their distinctions, and the texts in the *corpora* had correspondingly different histories, shape, and bulk. Even at its medieval maximum, in the fourteenth century, canon law remained as to volume about a third part of its civil equivalent. When Luther made a bonfire of the canon law the flames reached high, but they would have reached higher still if he had done it with the *Corpus iuris civilis*.

From the point of view of the societies that hosted them, what the two laws had in common still remained more important than their differences. They exercised a magnetism on each other, making common cause on a whole range of issues, all the more easily when their two sets of experts, respectively civilians and canonists, were identical people in the form of 'Doctors of Both Laws'. Both laws were learned systems, upheld by self-conscious and well-paid professionals who descended on to other legal systems as from above, uttering expert opinions purer and graver than anything likely to be familiar

in the rough and tumble of courts. The social influence of the two laws followed the same pattern. A few basic ideas from both became public property, through catch-phrases or well-known institutions (like the *inquisitio*, or notaries, respectively). Meanwhile the bulk of their ideas, on each side, circulated only within the profession, in a semi-arcane language which bound learned lawyers together and cut them off collectively from everyone else. In this, they shared the essence of all learned laws. Both, that is, consisted of—to quote a serviceable definition of law—configurations of general rules, standards, and principles, backed by sanctions, of the kind needed to hold any large society together, and formally written and studied in books.[1]

The two laws, civil and canon, therefore also share a function as historical evidence. In its own time law is a seal, imprinting its mark on the world that uses it. But for the historian, later, law is also a kind of wax, bearing that world's imprint. The imprint comes in two directions: horizontally, from concurrent legal systems; and vertically, both downwards and upwards: that is, from more idealistic layers of speculation like religion and philosophy, whose effect passes downwards; and, passing upwards from below, the effect of popular practice and malpractice. Written law, if carefully read, can therefore be a historical witness to areas of thought otherwise inaccessible.

All this applies particularly to laws on suicide. Suicide, we have already learned, has a capacity to beget paradox in the ethical and legal systems that attempt to house it. That capacity lost none of its force in the face of civil and canon law. The paradoxes it engendered will be observed here in two phases. One, properly medieval, will have treatment on its own in Chapter 8, where we shall watch the respective positions of the two laws start in apparent contradiction and gradually converge (even, at points, cross over). That phase will be strictly medieval. But since (I shall contend) there could have been no convergence or crossing if the two inherited blocks of texts had had no paradox in them to start with, these inherited texts invite study on their own. That will be the task of the present chapter.

Among the paradoxes just referred to, let me start with the most conspicuous. It is historical. The suicide texts destined to be read by medieval lawyers, respectively civil and canon, had been codified in the same century—the sixth ad—within thirty years of each other, and by authorities equally self-conscious and zealous as guardians of Christian orthodoxy. Yet on the solitary issue of suicide the two reached diametrically opposed conclusions. Civil law treated suicide as intrinsically innocent; canon law as, equally intrinsically, heinously culpable.

That paradox is too obvious to need emphasis, but let me say at once that,

[1] I adapt and paraphrase here the definition of law in H. L. A. Hart, *The Concept of Law* (Oxford, 1961), 121.

like many historical paradoxes, this one lies only on the surface. We shall watch it dissolve, as it becomes plainer how the two legislating authorities—responsible respectively for the opposing value-judgements—operated at opposite ends of the Mediterranean, in different types of society, and in different relationships to the corresponding local traditions. Indeed they were talking about different things; and that meant in turn—as we learned in Chapters 1 and 2 of the present volume (and will learn again in other contexts)—they were responding also to different impulses, coming at them from different quarters of their bodies politic. All things considered, therefore, the results were unlikely to look the same. As this becomes clear, that *prima facie* paradox will fade away.

In fading away, for all that, the *prima facie* paradox—and this is again common in the genre—will expose others, a second, hidden layer of more substantial paradoxes lying hidden in the texts. Paradox may, it is true, be too strong a word for what may more safely be called mere anomalies, bumps, as it were, on the conceptual surface of a law. But the terms are near neighbours, and whatever term we use for them, the anomalies—and this is what matters to the historian—rendered the law unstable. They resulted, that is to say, from the law's changing environment, and when they passed into another changing environment, their presence meant that the laws changed accordingly. That process may be hard to comprehend when described thus in the abstract; the story told in the present chapter should make it clearer. For our task now is to demonstrate it in action, and to do so, a beginning will be made with the *Corpus iuris civilis*, known more colloquially as Roman law.

Roman Law

Let me start with a sketch of what the *Corpus iuris civilis* was and how it came into existence.

The making of the law

Justinian and the law commissions

The ambitious, energetic, intellectually gifted Macedonian peasant who took the name 'Justinian' became an effective co-emperor in Constantinople in ad 518, in company with his uncle, and was sole Emperor from April, 527. Ten months later Justinian appointed a Commission to simplify several centuries' accumulations of imperial legislation and commentary. The Commission was to gather imperial constitutions (that is, Emperors' official enactments,

as distinct from rescripts—written replies—and lawyers' commentaries). The constitutions were then to be critically sifted and arranged, systematically, in a single work, accessible to lawyers. No more than fifteen months later, in early 529, the Commission produced the *Codex*, containing 4,500 constitutions duly edited. The Emperor scrutinized it, approved, and added his name.[2]

The *Codex* once completed, Justinian turned his attentions next to an even bigger accumulation: that of commentary by jurists, the more famous names among whom—Ulpian, Papinian, Paul, and others—had long had high authority in court proceedings. A second Commission was therefore appointed and began work in December, 530. Working in pairs, its six members read systematically through well over 1,500 'books'—a 'book' being as long as a notional papyrus roll of about 10,000 words—excerpting passages they thought important. The passages were then arranged for easy consultation under fifty headings. The result of this exercise, in its turn, was presented to the Emperor early in 533, little more than two years after the starting date. The collection was called the *Digest* or *Pandecta* (which means 'digest' in Greek). Although the *Digest* had been reduced from material some twenty times as long, it still contains no fewer than a million words, and fills three large volumes in a modern printed edition.[3]

Almost as an *hors d'oeuvre*, the second Commission summarized the basic principles of Roman law for students in a further book called the *Institutes*. And when that and the *Digest* were out of the way, they went on to make a second edition of the *Codex*. Meanwhile, with the help of at least one member of the second Commission, Justinian was continuing to publish his own constitutions to augment and modify those of his predecessors as gathered in the *Codex*. These last Constitutions, by Justinian himself, were later collected under the name *Novella* (or 'New Judgements'; the collection would also be known as *Autentica*). Together these four works, the *Codex*, *Digest*, *Institutes*, and *Novella*, were to make up what medieval lawyers called the *Corpus iuris civilis*.

As a sheer administrative achievement the work of Justinian's commissions has few equals in history. Its story has its own interest, and we shall return to one small episode in it. But at this point it is one general feature of the *Corpus* that calls for consideration. The story of Roman law in the Middle Ages has

[2] Text: *Codex Justinianus*, ed. P. Krueger, in *Corpus iuris civilis*, 6th edn, vol. 2 (Berlin, 1954). The commission: T. Honoré, *Tribonian* (London, 1978), 44–6. Context: A. H. M. Jones, *The Later Roman Empire, 284–602*, vol. 2 (Oxford, 1964), 470–522, with further literature.

[3] Text: *Digesta*, ed. Th. Mommsen and P. Krueger, in *Corpus iuris civilis*, 6th edn, vol. 1 (Berlin, 1954). Second commission: Honoré, *Tribonian*, 139–86. I have taken my picture of the making of Roman law from this and two further books by Professor Honoré: *Ulpian* (Oxford, 1982), and *Emperors and Lawyers*, 2nd edn (Oxford, 1994).

often been referred to as a 'ghost story'; that is, Roman law in the Middle Ages voiced a jurisprudence long dead, which merely haunted schools and courts governed, in reality, by contemporary medieval principles. There are no grounds to quarrel with that view: it is as true of Roman law as it is of many other areas of medieval culture, where ghosts were fairly ubiquitous—for all that they remained influential *dramatis personae*, not to be trifled with. (They still are that, of course, much more than we tend to think.) Medievalists, for their part, therefore have no choice but to believe in ghosts. This principle has stood as a premiss to the present trio of chapters, as it will be to some later ones. Believing in ghosts nevertheless means knowing them; that, in turn, means knowing also about the flesh-and-blood beings the ghosts were when alive; and that, in *its* turn, in the case of medieval Roman law, means knowing Justinian's law as it was the moment before being frozen into the *Corpus*, in the sixth century. And when we do look closely at this law, in the expectation that it will look like ordinary flesh and blood, we get an eerie surprise, as often happens in this class of narrative. For the fact is that, many centuries before the Middle Ages, much of Justinian's law was *already* a ghost at the time it was codified.

The two ages of Roman law

Elementary arithmetic will clarify this. Augustus, the first Roman Emperor, had died in ad 14. Justinian's codifications were finished in 533. The resulting texts were rediscovered, in Italy, in *c.*1050. 533 minus 14 equals 519; 1050 minus 533 equals 517. That is, some of Justinian's law was already older in the year 533 than his codification as a whole would be when rediscovered by the Latin west. We agreed, I hope, in the last chapter (in respect of Stoicism), that philosophy cannot easily dominate a population for five centuries and remain the same everywhere, for everyone, and in every particular. No more can law do so, different though the ways may be in which it bears and reflects change. The *Corpus iuris civilis*, in a word, contained material from more than one age, the material from each being subtly different. As a broad, preliminary distinction, experts in Roman law have divided its origins into two periods: classical, made between about 100 bc and ad 250; and post-classical, made after then.

The study made in the last chapter of Roman philosophical tradition has shown a change in emphasis very approximately corresponding to these two periods. The lawyers' distinction of classical and post-classical is therefore worth looking at more closely, since this distinction affected the later history of Justinian's law. The effect is most obvious in respect of the *Digest*. At the time the *Digest* was made, nearly all of it was 'ghost', in that 95 per cent of

quotations in the *Digest* had a classical origin. That places the *Digest* at a clear distance before the triumph of Christianity. In the Middle Ages it would be precisely this fact, the weakness of its Christian authoritarian element, that recommended the *Digest* to the Italian communes, which grew in antithesis to their bishops. Later it would recommend it also to secular states, for whose rulers Justinian's Christian Caesaropapism was at best ambivalent; the secular rulers preferring to think of themselves as so many Trajans and Hadrians, pre-Christian emperors, that is, laying down the law in religion as in everything else. Conversely, it was the pre-Christian character of the *Digest* that caused its neglect in the early Middle Ages: after one brief mention by Pope Gregory the Great, the *Digest* had to be 'rediscovered' in the middle of the eleventh century. It would not have *needed* to be rediscovered if anyone had wished to read the book earlier. It was again under inspiration from the communes, almost certainly not from the Church, that, after *c.*1100, other western copies were made.[4]

The presence of two Roman ages in Justinian's law is thus integral to its later history. This is true in a special way of suicide. Justinian's texts on suicide divide, like the rest, into classical and post-classical, but with a shorter time-bracket for the classical. Most of the suicide provisions come in two chapters respectively in the *Codex* and the *Digest*, and stem from the reigns of a small group of five Emperors, namely Hadrian and four of the Antonines. The ascendancy of this group, collectively, stretched broadly from ad 117 to 235, missing out a few troubled reigns in between; altogether, just over a century. These five reigns share a distinct character as being those of Emperors who also accounted themselves philosophers. Hadrian began the tradition, patronizing philosophers and seeking, with a higher degree of self-consciousness than previous Emperors, to govern in a corresponding spirit. Hadrian adopted, by law, the like-minded Antoninus Pius as his successor, and arranged for Antoninus Pius, in turn, to choose and adopt as his successor Marcus Aurelius, still renowned as the most philosophical of all Emperors. The tradition continued to Alexander Severus, who died in 235. The deliberate retention of the adoptive name 'Antoninus' was an ideological message. Although practice might not always match it, the Antonine ideology remained both distinctive and continuous.

[4] P. Weimar, 'Die legistische Literatur der Glossatorenzeit', in H. Coing, ed., *Handbuch der Quellen und Literatur der neueren europäischen Privatrechtsgeschichte*, Band 1: *Mittelalter* (Munich, 1973), 129–260, esp. (for the above) 158–9; modified by C. M. Radding, 'Vatican Latin 1406, Mommsen's, MS S, and the Reception of the Digest in the Middle Ages', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Romanistische Abteilung, 110 (1993), 501–51. The modification is particularly radical in respect of the alleged descent of all later MSS from a single copy found in southern Italy.

The philosopher lawyers

It should go without saying that these five Emperors could not have served this ideal on their own as so many individuals, and they did so in alliance especially with one group of allies, the lawyers. The status and self-image of lawyers differ in different historical periods and cultures, and in Antonine Rome both were exalted. The lawyers' corporation traced its descent from the pre-imperial College of *pontifices*, and had an appropriately ambitious idea of its functions, calling itself a *res sanctissima*, a 'most holy estate'.[5] Public recognition of the lawyers' status advanced measurably under Hadrian and again under Septimius Severus (ad 193–211), as if in imperial endorsement of their high self-evaluation. Others meanwhile endorsed the status from outside. St Gregory Thaumaturgus (*c.*213–*c.*270), for one, a clear generation or two before Constantine's conversion, could rhapsodize on the 'wise, exact, varied and admirable, and in a word thoroughly Hellenic' character of Roman law in his time.[6]

I shall be arguing in the following pages that, for all its wisdom and exactness, Roman law contained a contradiction in respect of suicide. Before starting on that argument there is a necessarily preliminary. Some modern scholars have argued that Roman law is *all* contradiction; or rather—in sharp dissent from St Gregory Thaumaturgus—that contradiction is not so much an acute problem for Roman law, here and there, but chronic and inherent in the law. Since that position would render my own limited exercise otiose, I shall begin by outlining the argument in question and say why I disagree. The case is in two parts, the first about the Roman civil law in general, the second directly about the role of suicide in it.[7]

The first concerns the fisc, the destiny of the law's *confiscationes*. A modern student of the Empire inevitably reads of the fisc through a gauze of modern presuppositions, fruit of centuries of recent state-building,—as witnessed by our usage of the word 'fiscal'. Lacking contrary evidence, we think of the Roman fisc as another well-run and accountable state treasury. In the last few decades, however, contrary evidence has been accumulating (chiefly through the work of Fergus Millar) and turned that picture upside down.[8] The Roman fisc emerges as the Emperor's *ex officio* private treasury,

[5] Honoré, *Ulpian*, 30. [6] Quoted by Honoré, *Tribonian*, 30.

[7] The following summarizes the main position of the iconoclastic article by P. Veyne, 'Suicide, fisc, esclavage, capital et droit romain', *Latomus*, 40 (1981), 271–68; and gives the gist of my own reservations. Professor Veyne offers a substantial series of reinterpretations of Roman law texts on suicide, inviting more particular answers than would be appropriate here. The essentials of my reply remain two: that a law can be opportunistically employed without being in itself incoherent; and that, *e contrario*, coherence will actually render such employment more effective.

[8] F. Millar, *The Emperor in the Roman World* (London, 1977); esp 133–201 (= pt 4: 'The Imperial Wealth: Gifts and Exactions').

accountable only to him and wholly distinct from the old, republican Roman public treasury, the *aerarium*, whose size the fisc came to dwarf soon after the principate was established. The fisc had its origin, almost certainly, not in any republican institution but in one of the eastern despotisms conquered by the early Emperors. By the early first century ad the fisc was already much the biggest accumulation of wealth, public or private, in the Empire. One scholar has not hesitated to characterize it as a 'monster', hybrid between 'in a modern comparison' the Soviet Gulag and a big multinational company.[9]

Emerging with the principate, this 'monster' was its necessary economic basis, as source for the lavish gifts the Emperor constantly had to make to marshal support. Just as constantly, the fisc had to be replenished. No source was more fruitful than judicial *confiscatio*,[10] which could be imposed for a wide range of offences, capital and non-capital, from *perduellio* (treason) downwards. This is where the civil law came in. For the *ex officio* owner of the fisc was also *ex officio* head of the judicial hierarchy, and the judgement of cases of treason, as of many other offences, invited political or even personal considerations. It is not hard to understand why the mass of property-owning citizens had reason to fear the Emperor's displeasure, indeed his whim. Suetonius tells of Caligula (ad 37–41) that he once rose from a game of dice and arrested two passers-by of the knightly class, confiscated their property, and returned to the game to boast that his luck had never been better.[11] *Ben trovato*, perhaps, but Suetonius would not have told the story if his public had not recognized the mechanism it illustrated, nor could the two knights have complained their own luck had never been *worse*, since the trumped-up charge might have been capital and lost them their heads. One third-century historian, Dio of Prusa, indeed wrote separately of both Trajan (98–117) and Septimius Severus (193–211) that they 'killed no one for their money'.[12] It was meant as a special compliment—undeserved, as it happens, in the latter instance.

Against this voracious fisc, the civil law was the property-owning citizens' bulwark. A sceptical view of the law emphasizes this underlying strategic purpose and, by contrast, and as an alleged consequence, the essentially tactical nature of the law's utterances, as a miscellany of imperial rescripts to questions put on particular cases concerning property and family.[13] This characterization, if correct, would bear in a peculiar way on suicide. Suicide, through the ages, has enjoyed a special relationship with despotism. Durkheim's findings suggest that suicide rates tend to rise under despotic

[9] Veyne, 'Suicide, fisc, esclavage', 229 (actually 'General Motors').
[10] Millar, *Emperor*, 163–74 (= pt 4, §7: 'Condemnation and Confiscation').
[11] *Gaius*, ch. 41, §2, quoted by Millar, *Emperor*, 168.
[12] Millar, *Emperor*, 169, 171.
[13] Veyne, 'Suicide, fisc, esclavage', 247.

government,[14] and our sparse data from medieval Europe, examined in the previous volume, give some confirmation of that.[15] Seen the other way round, from the despot's point of view, suicide is a splendid opportunity since it involves the disappearance, *gratis*, of the main defender of a family's wealth, and under all the more favourable conditions if suicide happens to lie under a public moral stigma which renders the family's position, already weak, all but indefensible. Medieval kings (especially the English) were seen in the previous volume launching regular initiatives to hunt out and verify suicides, a source of lucrative confiscations. This was in monarchies moderated by medieval checks and balances, like the web of contractual relations emanating from vassalage (commonly called 'feudalism'). Transfer the core of the model to imperial Rome, and it is not hard to see that if suicide were *not* held to be intrinsically innocent, it would lay wide open a breach in the property rights of citizens. Granted, finally, that we actually know very little about Roman *criminal* law,[16] and that the business of the *Corpus iuris civilis* lay exclusively in the province of property and family, the utterances of Justinian's *Corpus* about suicide dwindle to the status of being tactical and incidental.[17] They represent suicide as innocent not for philosophical reasons—albeit that a lawyer may occasionally offer quasi-philosophical justification for his position[18]—but because any trace of guilt attached to suicide would be an invitation to fiscal voracity, which the law alone could limit.

That, put (I hope) as fairly as possible in a short space, is the argument for the essential incoherence and inconsequence of the Roman civil law on suicide. It is an argument it is permissible to go some of the way with, without necessarily going far. Just how far it is right to go, reign by reign, is a matter for debate by historians of each. The use to which any legal system is put varies according to its political environment, and the Empire cannot have been an exception (quite the contrary). From a medieval point of view, fortunately, such a particular debate is unnecessary because the wider one can be settled by a general principle: namely, that if the civil law really was (as there is no reason to deny it was, especially in some reigns) resorted to as a bulwark against greedy despotism, its effectiveness in that role would increase with its degree of philosophical coherence. If the power of the mind was to confront executive tyranny, it must be used consistently, and not be caught out. Hence

[14] Durkheim, *Suicide*, 346–60, 370–80.

[15] *The Violent against Themselves*, 240; cf. the peaks in recorded suicides under the strong-arm monarchies of Edward I, Richard II, and Henry VII (ibid., 126, 369–78).

[16] J. Crook, *The Law and Life of Rome* (London, 1967), 68–97, 268–85 (pages which also give a vivid summary of what we do know—published, however, before Millar's reassessment of the fisc).

[17] Veyne, 'Suicide, fisc, esclavage', 221–4. The provinces of civil law limited: 218–19.

[18] Ibid., 221, 265 n (disposing thus of Ulpian's defence of a slave's natural right to suicide).

the law's inbuilt need for a high philosophical aspiration. Coupled with the need was a historical circumstance: the philosophy was more or less there, ready made. Philosophy, of one kind or another, had been Rome's inheritance from Greece, and was the inheritance of imperial from republican Rome. In the endless succession of ghost stories which the history of law consists of, the Antonine law—itself, as we have seen, destined to haunt two quite different successive ages, still centuries ahead—was in its own time a ghost of the republic. Those stories of the republican martyrs, Lucretia and Cato, taught us that the republic had begun and ended in opposition to one-man rule, a republic armed with, as ideology, an egalitarianism of virtuous citizens. In the form of law, that ideal endured under the principate, both to regulate one-man rule and (quixotically from some points of view) to justify it: what was unique about the Roman Emperor was that he ruled over free citizens—free in just that sense, of enjoying rule by law. We shall see frictions in this republican-cum-imperial ideology, re-emerging in the thought of its most eloquent medieval admirer, Dante Alighieri (and causing him, too, a problem in respect of the ethics of suicide).[19] In its own time, already, the ideology had its internal frictions, and in a moment I shall try to pinpoint one of them. But to say an ideology contains internal frictions is not to accuse it of chronic incoherence. Whatever the law's political and economic setting, it could not have performed its task if its *pontifices* had not sought, and at many points found, a philosophical validity appealing to rational beings generally: rational beings who included Emperors (like the Antonines) and, after another millennium, medieval civil lawyers and canonists, both of which categories believed, from their several angles, they had discovered in Justinian's *Corpus* a way to bring an ideal city down to the level of their own.

By the time of Justinian's *Institutes*, therefore, we should not be surprised to find it taken for granted, in lessons to first-year law students and with no trace of scepticism, that what they were about to engage in was the 'true philosophy'.[20] Our previous rehearsal of philosophical schools[21] may lead us to ask which 'true philosophy' was meant. It has also made us chary of too precise a nomenclature, beyond saying that if a name had to be chosen for the lawyers' philosophy it would not be that of contemplative Neoplatonism, but that of socially minded Stoicism. The name 'Stoic', after all that, may be thought near enough. But there was one main difference. The true philosophy of the lawyers was even *more* socially minded than other Stoics, in that, for them, the 'true philosophy' *was* law. It was part of the philosophy's essence that it should be enacted in law. The social and practical dimension of their thought, that is to say, was a part, and a central part, of the philosophy, not an

[19] Below, pp. 309–15. [20] Honoré, *Ulpian*, 30. [21] Above, pp. 127–31.

appendage. Thinking, legislating, and judging, for the classical Roman lawyers, went together like a Christian's faith and works, making the lawyers' 'true philosophy' distinct, in this particular, from all other manifestations of Stoicism, however much it might draw on the latter's traditions in other respects.

For the classical Roman lawyers, this organic relationship between philosophy and law had, once more, a particular effect for suicide. Stoic philosophers here, as we saw, defended its legitimacy. Classical lawyers not only absorbed the Stoics' orthodoxy on this point, but defended it with vigour. That position can be understood best by reference to the teaching of the most extreme proponent of suicide, the much-read Seneca, for whom, we recall, to frustrate a man's attempt at suicide was a worse injury than to kill him.[22] The pontiffs of the lawyers' corporation had no choice but to extend that principle to law. For if it is wrong for any individual man to rob another of his right to suicide, how much more wrong must it be for the *state* to do so. Logic and equity, on this line of reasoning, required not only that no discouragement be given to suicide, but that no trace of stigma or posthumous penalty be attached to the act. The law was there to defend basic rights, not to infringe them. No legislator could read Seneca—as many did—and avoid that consequence. In both the *Codex* and *Digest*, in fact, the consequence is often both stated and implied. The following quotation is from the *Codex*, in a rescript of Antoninus Pius, who is here insisting that suicide does not invalidate a will:

> If it is proven that your brother or father, not being accused of any crime, has hanged himself to escape from some physical pain or out of weariness of life, or from rage or insanity or other circumstance, then his property will go to his heirs, and this irrespective of whether he has made a will.[23]

Dolore aliquo corporis aut taedio vitae. The Stoic vocabulary is unmistakable.

Other instances of this will be seen in a moment. Meanwhile, since we are still examining the presence of two ages in Roman law, let us move on some 300 years, from the time of the philosopher Emperors to that of Justinian, that is, to the post-classical law. Some of Justinian's contemporaries looked back on the Antonines with loyalty to their principles, some not. The results of their tension, the tension between two ages, can be palpable.

Two ages in tension in the time of Justinian

The first result is yet another paradox. The early chapters of Augustine's *City of God* had been available since the early fifth century, that is, since more than

[22] See above, p. 139.

[23] *Codex*, bk 9, title 50, §1 (ad 212) [ed. Krueger, p. 394]; cf. *Dig.*, bk 48, title 21, §3 (5), [ed. Mommsen, p. 870].

a hundred years before Justinian's codifications; and from the early fourth century, at latest, any reasonably well-informed eastern Christian had known which side the Church was on in this matter of suicide.[24] Justinian's particular form of Christianity, it also happens, was egregious in its zeal for persecuting religious deviation. In 528 and 529—that is, just as the first Law Commission was being conceived and born—the Emperor had enacted that any holder of property or a public office should become a Christian within three months or lose it, and pagan religious practices were made punishable by death.[25] Zealous Christian authoritarianism could not ask for more. Yet—and here is the apparent paradox—in the very first years of these measures, Justinian's lawyers, as if oblivious to all contrary influences, were consciously, deliberately, and after selection from a far greater mass of law, preserving laws from a pre-Christian Empire that insisted on the *non*-culpability of suicide.

This paradox is another that dissolves on inspection; and it leaves behind, in its place, a cultural tension of the kind that commonly results if someone with political power attempts the impossible. For in law (as incidentally also in politics) that is just what Justinian was doing. What his legal enterprise was attempting was to establish permanently, at the core of an intolerantly Christian Empire, a legal *corpus* mostly based on pre-Christian principles. The consequent disjunction was hidden, then as in the Middle Ages, by the harmony of many of the pre-Christian philosophical principles with those of Christianity. Note has already been taken of this harmony as exemplified in the *dicta* of Cicero and Seneca, which came to cohabit amicably with Christian authority in medieval guides to preachers and confessors. For the same reason, back in the third century, as we heard, St Gregory Thaumaturgus had praised Roman law as 'wise . . . and admirable'. But now already, in the sixth century as later in its medieval incarnation, suicide was beginning to jut out as the exception, since it supremely exposed the distinction between the two world-views. You could not be a Christian and treat suicide with indifference, yet that is what Justinian's law purported to do.

The social tension can be detected where we would expect it, that is, among the professional lawyers. Before going on to detect a corresponding tension in the texts, it will be useful to document its presence among the men who compiled them. Trained in the conservative law schools of Beirut and Constantinople, the legal *pontifices* were among the very office- and property-holders envisaged by Justinian's measures of Christian persecution, and there are plenty of signs, whether or not we call the lawyers 'pagan', that their true philosophy sat uneasily with Christian fervour. One such sign may lie in the career of the lawyer most directly responsible for editing the suicide

[24] See below, pp. 575–80, 588–92. [25] Honoré, *Tribonian*, 15.

provisions in the *Digest*, Tribonian, the most important of Justinian's legal advisers, and the inspiring spirit of the second Law Commission.[26] Tribonian would be remembered by one tradition, documented in the tenth century, as actually having been 'an atheist and opposed to the Christian faith in every particular'.[27] If correct, that would certainly explain, in so far as it needs explaining, why Tribonian for his own part would have had no qualms at including Stoic suicide laws in the *Digest*. It is true that the tenth-century record must at least be an exaggeration (Tribonian can hardly have 'opposed the Christian faith in every particular' *and* kept the close confidence of the fastidious Justinian). Nor does any piece of contemporary evidence decisively confirm it. Those modern scholars best placed to judge are divided.[28] So we cannot say Tribonian *was* an atheist. We just do not know. As in Renaissance Italy later, so in Justinian's Constantinople, the scholarly classical language used by such writers could have the effect of hiding their religious affiliations, and often did so when that effect could be politically useful. If Tribonian remains a religious dark horse, it is because he had good reason to be one.

Whatever we make of Tribonian's doubtful loyalties, our knowledge of the tension in Justinian's Byzantium does not depend on them. The very tenor of the Emperor's measures against pagans is sufficient indication. It also happens that another case-history, of a man known to Tribonian and perhaps one of his lawyer colleagues, illustrates the pagan–Christian tension even more clearly. The man was Phocas, who may have been the same 'Phocas' as the one who served on Justinian's first Law Commission. The Phocas we are certain about had been promoted during a revolt in 532, a revolt which had nearly aborted the *Digest* project and indeed Justinian's very reign. But Phocas was suspected of paganism. His conversion to Christianity had been of the kind engendered by the recent decrees. Like its analogues in late fifteenth-century Spain, Phocas' was a forced conversion, and was eyed warily by an imperial *inquisitio*, which in 546 finally challenged him. In danger of exposure and punishment, Phocas committed suicide. Not only the antecedents, but the sequel to this act illustrates the tension of which I am speaking. For while the old Roman law—in whose codification this very man may have had a direct hand—mentioned no posthumous penalty for suicide, such a penalty was imposed. He was buried ignominiously and without prayers, 'like a donkey'.[29] The tension between the two ages could not be more vividly portrayed.

Having considered the milieu of the lawyers who codified the texts, we turn now to the texts themselves. As medieval evidence they are as important as

[26] *Dig.*, bk 48 was compiled by the Sabinian committee, chaired by Tribonian; Honoré, *Tribonian*, 184, 170.
[27] Ibid., 64. [28] Ibid., 64–8 for a review of the evidence. [29] Ibid., 54–5.

any we have so far reviewed. Every one of the following laws and comments was known and pored over by medieval civil lawyers, a learned, intelligent, influential profession.

The law

The transition from philosophy to law: the Stoic paradox

In the Roman law on suicide, much the most consequential of the paradoxes I have referred to is one I shall call the Stoic paradox, and I shall begin, once more, with an explanation of how it came about. The Stoic paradox was a by-product of the transition of Stoicism from philosophy into law. To try to turn philosophy into law is all very well, and doubtless a sign of good intentions. But like many of the latter it meets practical difficulties, for philosophy and law are two quite different things, and remain, despite many close connections, distinct fields of human activity. The 'true philosophy' of the lawyers was in this measure *un*true, since it tried to render the two fields identical, and in doing so engendered anomalies.

It will help us understand these anomalies if the differences between philosophy and law are explained more precisely. The essential differences are two: first, that law is more socially minded than philosophy; and second, it is intrinsically more practical. Each of those adjectives invites elaboration. That law is socially minded means, at bottom, that law stands in a different relationship from philosophy to social obligation. A philosopher will weigh the question of his social obligation up and ask, 'Should I care about society or only about myself?' We saw how Greek philosophers rehearsed some of the possible answers. Aristotle favoured the first alternative, the Cynics (partly in reaction), the second, while the Cynics' glorification of personal caprice contributed to the teaching of both Epicureans and Stoics, as perhaps it had to, since a conviction that I am a 'law unto myself' can be a useful spur to creative ethical thinking: the deliberate eccentricities of a Diogenes, after all, belong to the early history of the discovery of the individual, of the adolescent who 'finds himself' through eccentricity. It is true that Stoics never went as far in this direction as the Cynics, or at least never stayed there. It is also true that later, especially in its Roman incarnation, Stoicism could show some positive signs of social-mindedness, as when—as we heard from Cicero—it put 'the needs of country and friends' among grounds for or against suicide. That social side was part of the appeal of Stoicism to Rome. It is equally true that if Stoicism had lacked this amount of a social dimension, it would never have fed into the lawyers' 'true philosophy', with its central ambition for the right regulation of society.

Despite all that, for a philosopher—and I mean a *pure* philosopher and not

a lawyer who claims his own profession is the true philosophy—society remains secondary. For the Wise Man, reason is sovereign. His own reason is the sole judge of moral directives. Imperatives from outside are invalid unless reason endorses them. Country and friends may count, but only if his reason says so. This position is not the same as solipsism (the belief that oneself is the only person who exists), but it can resemble solipsism, and can decline into it if it does decline (just as, in the opposite direction, obedience to external imperatives can decline into time-serving).

Law is in the opposite position. While law need not be rational, it *has* to be social. Where the philosopher's sense of social obligation can vary, even dwindling to nothing (as it did among the Cynics), for law the case is the opposite. Social obligation is of the essence. Try imagining Diogenes in his barrel as a lawyer. It cannot be done. If the Stoics eventually did become lawyers it was at the cost of reducing whatever inheritance they had from the Cynics. Reducing, not divesting themselves of it altogether; for they could not do that and remain philosophers.

The presence or absence of social-mindedness, at the heart of the discipline, is the first main difference between philosophy and law. The second, related to it, is that law is more practical. A philosopher can, if his reason says he should, do nothing at all but think. Law has no option but to be practical, since law is meant for people in the plural, and has to promulgate statutes, detect and catch law-breakers, and impose sanctions. However refined its procedures may be, law is on these very grounds exposed to contingencies, hence to imperfections from which the moral philosopher is spared. The philosopher's Higher Self judges his Lower Self. He is a complete Court, holding judge and defendant both within him. Promulgation, detection, enforcement, and sanction are all in the philosopher's own hands. In law, by contrast, the entirety of one man judges the entirety of another, and can fail and make mistakes.

These differences between philosophy and law, while generally valid, are in their nature likely to show up in the attitudes of the two disciplines to our subject. Indeed, the latter being the maverick that it is, they are likely to show up here more than anywhere else. Suicide is the moral act *par excellence* by which a man abstracts himself from society. To be sure, suicide may also separate him from life, pain, thought, self-consciousness, passion, and so on, all of which are the philosopher's affair. But suicide cuts him also from society. That is the law's affair. This is why suicide puzzles law; and it is why, in particular, it puzzled Roman law. For in the history of Roman law we see how the doctrine of a man's fundamental right to kill himself tried, and ultimately failed, to pass over the threshold of the house into which it was born, the house of philosophy. This is what I have called the Stoic paradox.

Suicide and confiscation: the law's problems

A short time has been taken to identify this paradox. In the six sections that follow, a longer time will be taken to show, more specifically, how it worked its way through the substance of Roman law on suicide. Some of the demonstration may seem to smack more of technical jurisprudence than of history, but—quite apart from the fact that everything belongs to history if treated historically—the demonstration will serve at least one useful purpose that cannot be served in any other way. It is frequently thought, in so far as thought is spent on the matter at all, that the medieval condemnation of suicide must have stemmed from canon law. The previous two chapters have shown that, as far as the ancient inheritance was concerned, non-Christian philosophy had as much to do with articulating the condemnation as did specifically Christian writing; at least, that it reflected as strongly—even more strongly—an anti-suicide shift in opinion in the late Empire, a shift unlikely (no doubt) to have been unconnected with the rise of Christianity, but distinct from it.

The argument that follows will take this process further. The first part, based exclusively on an examination of the principles of Roman law, will show that, on these principles alone, suicide had to come into disfavour. The second part, by examining canon law, will portray a specifically ecclesiastical legal approach to suicide, and give an opportunity of contrasting the two configurations of thought which the subject of suicide elicited in the two bodies of law. The medieval influence of the two laws will not be understood—and may too easily be misunderstood as a contrast of 'for' and 'against'—unless we give both a scrutiny comparable in thoroughness to that given them by the medieval professionals.

We turn now, therefore, to consider the effect of the Stoic paradox in Justinian, and a start must be made in that legal context in which most of the references to suicide in Roman law occur: confiscation. The law's problem here—and the problem which most exposed it to the puzzle just identified—was that a sentence which entailed confiscation put a citizen under a specific social obligation, namely a financial obligation to the Emperor, theoretically personifying the state. Suicide involves a withdrawal from social obligation, so the demands of philosophy and law were here in direct contradiction. The attempt to reconcile them led to difficulties which could not, in the end, be resolved. The next three sections of this chapter will demonstrate this in detail.[30]

[30] Specifically on suicide in Roman law, in addition to works more generally on suicide in the ancient world: E. Volterra, 'Sulla confisca dei beni dei suicidi', *Rivista di storia del diritto italiano*, 6 (Bologna, 1933), 3–26; A. Vandenbosche, 'Recherches sur le suicide en droit romain', in *Mélanges Henri Grégoire*, vol. 4 [= *Annuaire de l'Institut de philologie et d'histoire orientales et slaves*, vol. 12] (1952), 471–516; J. C. Genin, 'Réflexions sur l'originalité juridique de la

Roman law acknowledged that some crimes—it was especially true of treason (*perduellio*)—were punishable by death or exile, accompanied by the forfeit of the culprit's property to that voracious imperial fisc. Suicide, which I characterized earlier as constituting a key sector of the law's bulwark against unjust confiscation, created a practical problem all of its own. Let us put ourselves into the minds of the participants. Suppose a condemned man expected to suffer this double fate, of death (or exile) and confiscation. He might not be able to avoid its first element but he could escape the second, and save his property for his family, by killing himself and halting the trial. For an important principle of Roman law was that it did not put the dead on trial. The law taught that 'crime is extinguished by death [*crimen extinguitur mortalitate*]'. This principle was tied in with two other doctrines in Roman law, that the purpose of punishment is to amend someone's behaviour and that it was unjust for punishment to be inflicted on a man's family for want of a living culprit.[31] By using the principle *crimen extinguitur mortalitate*, therefore, an ingenious defendant could abort and nullify, by suicide, a trial which might otherwise have ended in death and confiscation. Logic alone suggests this manoeuvre. So anyone in that position would think of it, and history confirms that people *did* think of it. In the first century bc a dozen or more episodes, mentioned by Roman historians, show that accused citizens discovered and employed this manoeuvre.[32]

The logic of the situation was therefore not lost on unlucky defendants. Logic being logic, however, anyone can follow it, whether a defendant or not, and this particular logic dawned also, in time, on the state authorities. In the period covered by those dozen or more episodes modern scholars are divided about just what the law was, whether the state did or did not allow suicide to

répression du suicide en droit romain', *Mélanges offerts au Prof. Louis Falletti*, in *Annales de la faculté de droit et des sciences économiques de Lyon* (1971), 233–93; A. Wacke, 'Der Selbstmord im römischen Recht und in der Rechtsentwicklung', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, rom. Abt., 97 (1980), 26–77; M. Battaglini, 'Libertà e determinazione nel suicidio, in Roma antica', in *Scritti in onore di Gaspare Ambrosini*, vol. 1 (Milan, 1970), 93–156; Veyne, 'Suicide, fisc, esclavage' (as in n. 7 above); Grisé, *Le suicide*, 247–81. More general speculations: G. Masi, 'Il suicidio nel diritto comune (presupposti pagani e cristiani di valutazione del fenomeno)', *Il diritto ecclesiastico* [ed. R. Giustiniani and others], 63 (1952), pt i, pp. 497–544. The principal debts of the sections that follow are to Genin, my only difficulty in comprehending whose analysis is noted on p. 172 below, and to Vandenbosche. My occasional unease with the essays of Battaglini and Wacke flows from their apparent reliance, at critical points in the argument, on the general opinion of modern scholars and on gratuitous allegations of the interpolation, or even forgery, of texts (for instance, Battaglini, 133; Wacke, 63). Genin's patiently reasoned exposition avoids this effect.

[31] Genin, 'Réflexions', 243 n. 14.

[32] Grisé, *Le suicide*, 248–53; Wacke, 'Der Selbstmord', 54; and J. Crook, *Law and Life of Rome* (Ithaca, NY, 1967), 275–6 (quoting Tacitus, *Annals*, bk 6, ch. 21, §1, on defendants' widespread recognition of the above logic, and Valerius Maximus, *Memorabilia*, bk 9, ch. 12, §7, on its histrionic employment in action by Licinius Macer at his trial for extortion in 66 bc).

abort confiscations in this way. A likely hypothesis, explaining the doubt among scholars, is that the law was itself uncertain. For well it might be in the face of a dilemma which, though soon to be buried under the assured texts of the classical law, would shoot it through with scarcely visible fissures, fissures ready, as we shall see, to spring open when appropriate pressure was applied in the late Empire.

The dilemma derived, at bottom, from the same Stoic paradox. The Stoic's right to commit suicide was in conflict with the citizen's residual duty as a citizen. While the conflict could be hidden over much of its range it emerged at the point—and had to emerge at this point—where the citizen's social obligation was simultaneously, on one hand, most clearly defined, and on the other, most vulnerable to suicide: that is, when the citizen was bound to die anyway *and* owed the state money. It would be wrong to think that classical Roman law was put in this corner by mere fiscal greed. As I explained earlier, it was there to neutralize such greed. The fisc was indeed running short at just the time when the philosophers' influence was strong, but the whole tenor of Roman law—which in general, as a matter of textual fact, and in confirmation of the character it has been given throughout this chapter, runs more often than not against the state's fiscal interest—shows that the law's difficulty on this point came from the same source as its strength on so many others, namely a fastidiousness for justice.[33] The fisc, that fastidiousness insisted, had its rights like all other parties. To cheat it was therefore *un*just. When the injustice caused by suicide was so palpable, and to a victim with so strong a claim to legislative defence, the same lawyers who insisted that suicide was innocent were obliged to turn round 180 degrees and say that this one kind of suicide alone was culpable. Suicide in such a case, they said, could *not* nullify confiscation. That would be a cheat. So they closed the crack.

The closing of this particular crack, alas, could nevertheless only be achieved at the cost of opening up others. Lawyers, unlike philosophers, have to worry about procedure; and it was this—procedure—that proved the source of the Roman lawyers' next headache.

How to put a dead man on trial

The endeavours of some two dozen texts to close the next set of cracks show how conscious the lawyers were of them. The original problem, source of the others, was that the classical lawyers' new rule was an affront to the principle we have already heard about, that crime was extinguished by death, *crimen extinguitur mortalitate*, the very principle the suicide had successfully exploited. The logic was inescapable. Confiscation was a punishment.

[33] Genin, 'Réflexions', 261, esp. n. 28.

Punishments should not be imposed arbitrarily but only after due trial. The dead could not be put on trial. How, then, could the state legitimately confiscate a suicide's property, even if he *had* been on a capital charge?

This anomaly was resolved, like the previous one, at the cost of creating a new anomaly in another part of the system. For two solutions to the first anomaly were proposed, and each had a blemish. One solution was to do with jurisdiction. The confiscation, it proposed, could be taken out of the legal system altogether and made instead an administrative matter for the civil service, where procedural niceties need not apply. Debts to the treasury, as such, were normally matters for bureaucrats under their procurator, not for criminal trial, under the proconsul. The obstructive principle 'crime is extinguished by death' would not then hold, because the whole question was reduced to one of government accounting. That this solution was adopted already in the classical period is suggested by a rescript dated ad 207 in which the Emperors Severus and Caracalla say they

> do not understand why you wish to revoke a case to the jurisdiction of a proconsul which properly belongs the duties of our procurators . . . This not a question of crime or the punishment of a dead man but about property.[34]

The blemish in this solution is, quite simply, that confiscation for crime is *not* a purely administrative matter, whether the supposed defendant was dead or alive. Confiscation was punishment for an offence. To pretend otherwise was a fiction, and fictions (as it happens) touched another sensitivity of Roman law. The philosopher judges did not like fictions precisely because fictions smacked of the arbitrary, and the arbitrary was just what they were in business to oppose. Invent a likely story and you can do what you wish with the machinery of justice.[35] The hard fact remained, in this case, that a dead man had been penalized without a proper judicial trial.

In due course, therefore, yet another device had to be tried. This was that the confiscation remained *within* the judicial system, subject to specifically legal proceedings and to proconsuls, but that the proceedings—in view of the fact that the defendant was dead and *crimen extinguitur mortalitate*—were, for the sake of logical propriety, projected back into the suicide's lifetime. It was supposed, in a word, that the defendant had, in fact, been convicted and sentenced to confiscation. A brilliant solution, one might say, especially if one had thought of it oneself in the challenging conditions under which the lawyers worked. Supposing things, however, also involves fiction. So here was

[34] *Codex*, 3, 26, §2 (Severus and Caracalla, ad 207) [ed. Krueger, p. 131]; cf. Genin, 'Réflexions', 274; also Genin, 244 and Wacke, 'Der Selbstmord', 68. A similar idea is expressed in *Codex*, 7, 66, §3 [p. 328]; 'quamvis crimen in persona cius evanuerit, tamen causam bonorum agi oportet'.

[35] Genin, 'Réflexions', 243, 261.

another blemish. And the only way to avoid the blemish this time was to turn the act of suicide itself into *part* of the proceedings. At the precise moment, that is to say, that the defendant put the dagger to his throat but was not yet dead, and hence *before* the criminal proceedings were 'extinguished by death', the defendant had performed an act which contributed materially to the trial by making an implicit confession. (In an ordinary defendant, it should be explained, and quite outside the context of suicide, a confession would have sufficed to ensure conviction and hence confiscation, with no difficulties at all.)

This final reading certainly had a workaday sturdiness. The sturdiness was destined to recommend it to Roman law students of the Middle Ages and later. Then, it would be quite common to expound Roman law as saying that suicide by an accused criminal should be interpreted as a confession to the crime. But the expositors who said so were actually being as free with the facts as the Roman legists they were expounding, so this interpretation was really no more sturdy than the others. The difficulty had again only been moved on elsewhere. For a prisoner's act of suicide can*not* necessarily be read as a confession. It may be a way of escape from cruel execution, for instance. The lawyers themselves were a little uncertain on this, and again with justice.[36]

In their unease with that solution they duly came up with an alternative. The defendant, they said, had not confessed to the crime he was charged with but was guilty of a *second*, distinct crime: the crime of seeking to defraud the fisc. The suicide was an attempted fraud, and since it was the act itself which constituted the fraud he was caught *in flagrante delictu*, 'in the very act', a circumstance which (in Roman law) obviated the need for any trial at all. Here, surely, was a solution. On this interpretation the case really could, at last, be seen as merely administrative, and an affair for procurators. After all, if the crime was attempted fraud, embodied in a suicide which itself counted as a conviction, then no more legal procedures were necessary. The criminal's estate was in debt, and that was an end of the matter.

The classical lawyers appear to have settled for this solution, since no jurist is recorded as having noticed any flaw in it. But flaw there assuredly was. Indeed, this one involved the biggest fiction of all. Let *us* be logical even if they were not. For we have seen, as a matter of history, that classical law on suicide made it impossible for a suicide to defraud the fisc. Whatever their undiscovered logical fissures, those authoritative texts said a suicide criminal's property went to the fisc if the crime he had been charged with entailed confiscation. A little 'game theory' will be of assistance here. A defendant who killed himself to avoid confiscation knew the law. Therefore he knew

[36] *Dig.*, 48, 21, §3(5); ed. Mommsen, p. 870.

that, by hook or crook, whatever the legal anomalies, the law would see that the fisc was *not* defrauded. So the alleged new offence was impossible. It could never succeed. No defendant, however devious, treacherous, or dishonest, can rationally attempt an offence he knows to be impossible. And if he *cannot* attempt it, how can it be right for the law to punish him for doing so?[37]

How to discover a dead man's motive

When suicide was seen as intrinsically innocent, it was thus hard to make an exception. The dead could not, in the end, be put on trial without procedural anomalies. The main anomalies have just been identified, but one deserves more attention. It concerns motive. Like the others, the anomaly respecting motive was born from the classical lawyers' good intentions. In matters of crime, motive was something in which Roman law was particularly interested, focusing attention on what lawyers still call the *mens rea*, 'guilty intention', which alone makes an act criminal. This emphasis on motive would be another recommendation of Roman law to twelfth-century lawyers. In their own day, however, and in respect of suicide, the classical lawyers' interest in motive only made matters more difficult for themselves; for, unlike other homicide, which (then as now) was likely to be guilty except when specially excused, suicide was asserted to be in the opposite position, namely innocent unless done in one context and for a particular motive, to defraud the fisc. Since the objective act, the killing of oneself, was held to be indifferent, it was therefore its motive, and that *alone*, that could activate the law. Now we know motives are a delicate matter for any law-court. Even living witnesses may be untrustworthy when it comes to a defendant's motive. It could only make things harder, in cases of suicide, that the only witness to suicide was dead. In sum: while everything in the Roman law on suicide hung on motive, motive was the one thing all but impossible for a court to be sure about.

It was, of course, the benign influence of philosophy that had given classical Roman law its interest in motive; and it was the same philosophy that, at this point, led lawyers into a slough, a slough peculiarly their own, and one which, once more, marks the differences between philosophy and law. Both classical disciplines made motive the distinguishing factor between innocent and guilty suicide. The phraseology of law—with its references to *taedium vitae* (weariness of life), *aes aliena* (debt), and so on—endured as its tribute to philosophy in this regard. Their most obvious difference lay in the motive they chose to distinguish the guilty suicide: for the philosophers, passion; for the lawyers, injury to the state. But in practice there was another difference,

[37] Genin, 'Réflexions', 265–6, 276–7; cf. Grisé, *Le suicide*, 267–8. This is the one issue on which my interpretation differs radically from that of Genin.

whose consequence was that it was law alone which paid the price for this shared interest in motive. Philosophy went scot-free. For law functioned in the practical world, where fallible men had to judge each other. That meant making windows into their minds, and in respect of suicide, into the mind of the dead, who did not yield up their secrets.

That this obstacle was half-recognized appears from rescripts of the philosopher Emperors preserved in the *Digest*. Their answers imply that questioners were often perplexed as to a suicide's motive, and the rescripts usually tell them to give the suicide the benefit of any doubt. That was the case with the rescript of Antoninus Pius quoted on page 162. A more specific rescript of Hadrian (ad 117–38) goes further. It represents an allegation that a man has killed his own son, has been accused of the murder, and has killed himself after hearing the accusation. Should his estate be confiscated? The necessary condition is absent, says the Emperor, because:

> It seems that the father who is alleged to have killed his son committed suicide rather through grief for the loss of his son than from consciousness of guilt.[38]

How could anyone know, especially a distant Emperor, what 'motive' may have driven a man in this condition to suicide? The lawyers' tendency to give a suicide the benefit of any doubt could not be better illustrated. The man's estate duly stayed with his heirs.

This taxing question of motive was complicated by two further factors, both practical in character. If the suicide of a defendant was to be read as his confession to a guilty motive, at what point in the whole process did the suicide have to occur? On public rumour—as in that case last quoted? On material suspicion? On formal accusation? At the trial? After sentence but while an appeal was pending?[39] There were difficulties in all these, and all are covered by appropriate rescripts, which tend as usual to limit fiscal rights and absolve the suicide. But the nucleus of the problem lay beyond any rescript. For if the purpose of a criminal trial is to prove guilt beyond doubt, then any assumption of guilt before the completion of a trial devalues the trial process. Why try anyone at all if conclusions can be jumped to in this way? The second practical problem was the question of *who* had to prove motive, and how. By what procedure, and against what kind of pleading by heirs, could a court determine the guilt of a suicide's motive? Was the motive assumed innocent unless proved guilty or vice versa? Like the first problem, this one could be answered

[38] *Dig.*, 48, 21, §3(5), [ed. Mommsen, p. 870]: 'Videri autem et patrem, qui sibi manus intulisset, quod diceretur filium suum, occidisse, magis dolore filii amissi mortem sibi irrogasse et ideo bona eius non esse publicanda divus Hadrianus rescripsit.' Cf. Genin, 'Réflexions', 258; Wacke, 'Der Selbstmord', 58–9; Veyne, 'Suicide, fisc, esclavage', 234, n. 30 (emphasizing the unverified status of the entire charge).

[39] The last four of these problems are identified by Wacke, 'Der Selbstmord', 53.

according to a sliding scale on which infinitesimal changes could be made, surreptitiously giving the law a new character.

The instability of Roman law on suicide centred on the question of motive and the procedural problems that arose from it. These problems were in the end insoluble. Because of that, because they admitted no certain solutions, uncertain ones were given, uncertain solutions innately sensitive to forces of change, at work on the law from outside. This change occurred during and after the third century.

Post-classical changes: suicide becomes intrinsically wrong

The employment of a modern, not a medieval, historical approach to the *Corpus iuris civilis* reveals a shift in the character of the Roman law on suicide in and after the late third century. A first hint lurks in a rescript by the Superior Gordian III as early as ad 238. It runs:

> It is a well-known law that the property of those who have died under accusation of any crime punishable by confiscation, unless they have died by their own hand, pass to their heirs.[40]

It is to be noticed that this rescript fails to distinguish motive, thus implying that suicide, on its own, sufficed to weaken the dead man's claim.

A constitution of Diocletian and Maximian in 290 marks a more decisive step in the same direction. Not only is the suspect's act of suicide treated, for the first time, as an implicit avowal of the main criminal charge, but the onus of proving an alternative is put on the natural heir:

> If the testator was of sound mind when he made his will, and killed himself to escape physical pain or through some mental fury, and was not oppressed by consciousness of some crime, and you can give clear demonstration of his innocence, then his testament can stand.[41]

Suppose the suicide had been committed to escape a private debt? Suppose the widow could *not* prove her husband had not killed himself from an innocent motive? His property would go to the fisc. While falling short of making suicide intrinsically culpable, the constitution of Diocletian and Maximian has taken two significant steps. Not only has it incorporated the act of suicide into the aborted proceedings, *qua* confession by the defendant that he was guilty. More than that, it has moved along one of the procedural sliding scales by challenging the widow to prove the innocence of the suicide's motive. It

[40] *Codex*, 9, 6, §5 (Gordianus, ad 238) [ed. Krueger, p. 373]; Genin, 'Réflexions', 278.

[41] *Codex*, 6, 22, §2 (ad 290) [ed. Krueger, p. 252]; Genin, 'Réflexions', 279; against Grisé, *Le suicide*, 268–9; cf. Wacke, 'Der Selbstmord', 61f, and Veyne, 'Suicide, fisc, esclavage', 256 (who sees Diocletian's phraseology as characteristically transitional).

reads, at last, in other words, as if the mere act of suicide suggested a man was a scoundrel.

By the early sixth century a still more radical shift had occurred. It is to be glimpsed in a single text ascribed to the classical jurist Marcian, but with a phraseology that has suggested to scholars an insertion by the compilers of the *Digest*.[42] While the lawyers continue to distinguish a suicide's motives as if they are repeating old law, it is now, by a scarcely perceptible change, the suicide *sine causa*, 'without cause', that earns condemnation. This brings the lawyers at last into line with Stoic moralists, who had listed motives which justified suicide, and only condemned suicide done without one of those particular motives. Now, in the sixth century, the law had followed suit, condemning suicide *sine causa*. By doing so, however, the lawyers had fallen into a difficulty from which philosophers are free. For there is an important corollary: it is now the suicide *sine causa*, that is, suicide *qua* suicide, that precipitates confiscation, 'as if he had passed sentence on himself'. To quote the text, the man who raises a hand against himself is

> in any case to be punished, unless he has been driven to this act by *taedium vitae* or impatience of some pain. And rightly he should be punished if he raises a hand against himself without cause (*sine causa*). For the man who has not spared himself will much less spare anyone else.[43]

Suicide is here interpreted not as an implicit confession to a separate crime. It is the symptom of what in modern idiom would be called a 'desperado'. That last clause reads in Latin: *qui enim sibi non perpercit, multo minus alii parcet.* It happens to echo a phrase in Seneca Rhetor, a rhetorician of the first century bc, and has been read by some scholars as signalling the re-emergence of a submerged, anti-suicide strand in Roman culture. I hope to revisit that hypothesis later in this volume, and shall refer to this phrase again.[44] What concerns us, as we look at the *Digest* over the shoulders of medieval civil lawyers, is that here suicide is condemned as such and rendered criminal—despite all those efforts by the Antonine lawyers in the opposite direction.

By the early sixth century, then (the time of Marcian's rescript), lawyers appear to have simplified their inherited law in a sense unfavourable to suicides. Suicide now entailed confiscation. This reading of sixth-century law gets some support from a collection of texts which, although they never got

[42] Volterra, 'Sulla confisce', 406; Vandenbosche, 'Recherches', 503–5; Genin (quoting these two), 'Réflexions', 286.

[43] *Dig.*, 48, 21, §3(6), [ed. Mommsen, p. 870]. Genin, 'Réflexions', cf. Wacke, 'Der Selbstmord', 63 and 72. That the last idea was proverbial is implied by its presence also in *Dig.*, 21, 1, §23(3) (Ulpian) [p. 308]; [on the *malus servus*]: 'tanquam non nihil in alium ausurus qui hoc adversus se ausus est'. On the phrase in Seneca Rhetor, see p. 488 below.

[44] pp. 523–30 below.

into Justinian's own collections, used comparable material and were known to western legal specialists. These were the collections of Roman law made on behalf of the early Visigothic kings to assist in the government of their Roman subjects in southern Gaul. The *Lex romana visigothorum* (a collection thought to have been made under the direction of Alaric II in 506) includes a *sententia* of the classical Roman jurist (often quoted in the *Digest*), Paul, to the effect that the fisc took the property of the man who killed himself 'ob aliquod admissum flagitium' (because of an admitted crime), while any other motive allowed the heirs to inherit.[45] In the *Lex romana visigothorum* the quotation is presented without any of the qualifications and definitions given in the *Digest*, while the text is further simplified in the same direction by summary versions of the same law book, made in the same milieu. (Thus one such summary version, the *Epitome Aegidii*, misses out the clause about the heirs altogether and merely says that suicide 'pro aliquo admisso crimine' forfeits his goods to the fisc.[46] Another omits all reference to the *admissum crimen* and prescribes only that 'whoever kills himself, the fisc gets his property,' following carelessly and incongruously with an exception in favour of suicides 'for massive debt or the rest, of a similar kind'.)[47] In these summary versions, niceties of both law and philosophy have been thrown aside, to serve a confused but unmistakable assumption that the suicide, as such, must be a criminal.[48]

I have presented the tension in the Roman law on suicide as one deriving from the different characters of philosophy and law, in a body of law which seeks to cling faithfully to philosophic principles. Philosophy made suicide innocent. Law tried to follow its example, but was obstructed, it has here been argued, by its paramount concern for social obligation, an obligation which became rigorous, however free the citizen, when he was tried for crime. Hence the main anomalies in the law on suicide. But let me stay a moment longer

[45] *Lex romana visigothorum* bk 5, title 13: *De iure fisci et populi* [ed. G. Haenel Berlin, 1847; reprint, Aalen, 1962, 428]: '*Sententia*: Eius bona, qui sibi ob aliquod admissum flagitium mortem conscivit, fisco vindicantur. Quod si taedio vitae aut pudore aeris alieni vel valetudinis alicuius impatientia hoc admisit, non inquietabuntur: sed ordinariae successioni relinquentur. *Interpretatio*: Si quis sibi pro aliquo admisso crimine mortem intulerit, facultates eius fiscus vindicat. Nam si ingratitudine malae vitae aut propter verecundiam contracti enormis debiti vel impatientia valetudinis mortem sibi intulerit, bona eius suis legitimis heredibus nullatenus auferuntur.'

[46] Ibid., 'Si quis sibi pro aliquo admisso crimine mortem intulerit, facultates eius fiscus vindicet.'

[47] Ibid., 429 [= *Epitome Guelphi*, titulus 13]: 'Si quis se mortem ipsi. intullerit bona eius fiscus. adquerat, nam si per inormem debitum vel reliqua. his similia. filii sui bona eius possedeant.'

[48] Bayet, *Le suicide*, 384–5, also sees these texts as simplifying the Roman law to the suicide's disadvantage, but on the basis of a misreading of the *interpretatio* in Haenel's text. A better case, it seems to me, lies in the omissions of the *Epitome Aegidii* and *Epitome Guelphi*.

with this matter of social obligation, for it had not exhausted its arsenal of legal obstructions, placed in the path of a Stoic exculpation of suicide. There was indeed worse in store. For in respect of a *free* citizen the obligation we have considered was accidental. It occurred only if he was a criminal. In respect of two other classes of person, the obligation was part of their essence. For them, far from social obligation's being accidental, they lived and died under it by reason of their status. Lawyers' perplexities in their regard were correspondingly more severe.

Soldiers

I refer to soldiers and slaves. Since the life of either was largely defined by obligation, Roman law took a correspondingly serious view of his suicide. Nowhere did the philosophers' moral neutralization of suicide run into deeper obstruction than in respect of these two categories. Take the case of the soldier first. At first glance, Roman military law on suicide is another of those paradoxes. Every text on the subject in the *Corpus iuris civilis*, with the exception of an acknowledged odd man out,[49] agrees that a soldier's completed suicide was not punishable, whether it was done for private misery or to escape his ordinary military duties. Yet a soldier who merely *attempts* to kill himself could not only be punished, but punished by death. Could paradox be taken further? Indeed there are two paradoxes here, equally extreme. Not only does the law seem to single out suicide as a crime punishable only for the attempt, and ignore it as innocent if completed. The punishment for the attempted crime consists in the completion of precisely that act the attempt to perform which formed the substance of the punishable offence. The capacity of suicide to create anomaly could hardly find a neater illustration.

Once more the paradox is fainter than it seems. The absence of punishment for a completed suicide, first, is easily explained. Confiscation was not a penalty available to military law, and since this penalty was the only one attached to suicide in civil law, its military counterpart had no choice but silence.[50] Attempt was a different matter, and different for soldiers and civilians. Roman civil law, for its part, said almost nothing on attempted suicide; but that was because the only suicides it was interested in were those of

[49] The odd man out is a rescript of Hadrian in *Dig.*, bk 28, title 3, §6 (7) [vol. 1, p. 828]. It confiscates the estate of a soldier who kills himself *ob conscientiam delicti militaris*, that is, in circumstances analogous to those entailing confiscaton for a civilian. Why the rescript has always puzzled commentators is that it makes havoc of the rationale applicable in the civilian case. A suicide of this kind could under no circumstances constitute an attempt to cheat the fisc because the fisc could have expected nothing anyway, the defendant being a soldier. While a cry of interpolation has of course been raised, the context of the rescript—a batch of comparable rulings about *civil* suicide—suggests it may constitute a real illogicality, based on mere carelessness. Cf. Grisé, *Le suicide*, 274.

[50] Cf. Genin, 'Réflexions', 259.

defendants incurring confiscation anyway, and because its only interest, even in these, was that of protecting the fisc, which could not be threatened by an aborted attempt. The civil law being what it was, attempted suicide was therefore a matter of indifference. A soldier's attempt, on the other hand, raised subtler principles, the main ones being two, opposite to each other and uneasily dividing the field between them: one from military practice, and one, again, from philosophy. Objectively a soldier's suicide was tantamount to desertion, which *was* punishable by death. Equally objectively, any ground for fearing a soldier was the sort of person who *might* commit suicide—that is, in effect, desert—must make him in this particular less valuable as a soldier. At some unforeseen moment he might not be there. By rights, then, military law had every ground for discouraging any suicidal symptoms a soldier might display. The punishing of attempted suicide—the only kind that could be punished—would help this aim.

Philosophy, however, had brought its enlightened influence even into military law. Suicide on its own, whether attempted or complete, was not seen as culpable unless its intention could be shown as tantamount to that of a deserter. Again, everything pivoted on motive which, once more, though clear ground for the philosopher, was foul ground for judges. The result reads like a compromise:

> The soldier who raises a hand against himself but does not complete the deed is to be punished by death, unless he acted through impatience of pain, or of disease, or of some grief or other, or other cause [*vel alia causa*]; in which case he is to be dismissed with ignominy.[51]

This list of approved motives for suicide has the authentic philosophers' ring even, again, down to *vel alia causa*. Taken literally, that last expression nullifies the law since it extends approved exceptions to infinity. Its meaning can only lie in the Stoic doctrine that if some rational consideration (no matter what) beckons to suicide, then suicide is legitimate. That it was still not legitimate enough for the military authorities (who might wish to expel the man for all his technical innocence) is clear from the last clause. Questions of motive are elusive, and military authorities doubtless judged them on the spot as military authorities often do. A separate provision on the same subject meanwhile replaced the execution of a soldier who attempts suicide through drunkenness or love—motive being still central—by the milder penalty of transfer to another regiment.

[51] *Dig.*, 48, 19, §38(12) (Paulus) [ed. Mommsen, p. 869] *Miles qui*. M. R. De Pascale, 'Sul suicidio del "miles" ', *Labeo. Rassegna di Diritto Romano*, 31 (1985), 57–61, carries conviction in reading the compromise historically, as fruit of a philosophical intrusion into a law native to the Roman army, protective of its ever-precarious manpower.

Slaves

The Roman laws on a soldier's suicide show a tension between Stoic philosophy and, not merely law, but law among the exigencies of a military camp. A comparable tension is apparent, finally, in respect of slaves. A slave is property and a means of production, so that any homicide of a slave constitutes the same kind of damage to his master as the death of an ox or horse. The slave was worth more than a horse or ox, but the principle was the same. From before the Christian era stories survive to confirm what this consideration would suggest, that masters discouraged suicide among slaves by posthumous sanctions. Thus Dio Cassius has a story of Tarquin the Proud's crucifying the naked bodies of workers who had killed themselves during the building of the Cloaca Maxima. There are other such cases. The need for sanctions was doubly strong because of the epidemic quality in suicide, which meant one man's suicide could encourage others.[52]

But again there was a problem. Sanctions of this kind sat uncomfortably with Stoic philosophy. Stoicism, almost alone among major ancient schools of pagan philosophy, sought to envisage slaves as ordinary human beings with essentially the same moral rights and duties. The rights must include, consequently, as for a free man, the right to kill oneself when the occasion justified it. This view left an appropriate imprint on the classical law, and Ulpian in one place states it openly:

> the slave is entitled by nature to rage against his own body.[53]

Ulpian also begins to draw some of the consequences. There is no consequence for the fisc since the special status of a slave's property kept it as such from the fisc anyway. But there were consequences for the master, consequences which included that, where a slave suicide did leave property behind, his act of suicide conferred on his master no special rights over it, not even that of recovering the price of the dead slave from the latter's property. The only concession the law made was that if a slave *tried* to kill himself and the master incurred expense in nursing the man back to life, such expenses *could* be recovered from the slave's effects.[54]

The reader will again detect an air of compromise. It is as if slave-owners had wanted more but were held back by legislators. The same kind of compromise marks the ensemble of texts on this subject, and had to. For if the law

[52] Genin, 'Réflexions', 249; Vandenbosche, 'Recherches', §477, n. 2; Grisé, *Le suicide*, 127. Contagion: Durkheim, *Suicide*, 131–42, cf. below, pp. 481–2, 535–9.

[53] *Dig.*, 15, 1, §9(7) [ed. Mommsen, p. 229]: 'licet enim etiam servis naturaliter in suum corpus saevire'; cf. Grisé, *Le suicide*, 276, and Veyne, 'Suicide, fisc, esclavage', 221 and 225, who nevertheless discounts Ulpian's remark as the *ad hoc* rationalization of a position reached on other grounds.

[54] *Dig.*, 15, 1, §9(7); Grisé, *Le suicide*, 276; Wacke, 'Der Selbstmord', 70–1.

allowed slavery to exist, then no amount of lawyers' philosophy could spirit away the damage that the loss of a slave occasioned to his master. Logic alone teaches this. Either a slave is useless, in which case the price a master pays for him is thrown away; or he is valuable, and the master loses a utility by his death. To give this damage no sanction in law, out of respect for philosophy and its exculpation of suicide, called for magnanimity on the master's part, and law which demands magnanimity from one party is unstable.

The master's interest is prejudiced less severely in a second provision about slaves, this time concerning conditions of sale. A vendor was bound by Roman law to reveal any blemishes of which he knew in his merchandise. A slave was merchandise, so that if a slave had attempted suicide and his vendor concealed this fact, the law understood the slave's suicidal tendency as a blemish, which meant that the purchaser who discovered the truth within six months could void the sale.[55] Attempted suicide was here put on the same plane as a slave's past record as criminal or gladiator. Stoic doctrine has in this law temporarily slipped the legislator's memory. We find its traces, only, in a telltale exception to this law, concerning motive. If the newly bought slave kills himself (the law says) 'because he cannot bear a certain bodily affliction' or through madness, then his purchaser cannot, after all, recover the price. The exception, like so much of this legislation concerning motive, puts this provision high in the hierarchy of laws hard to enforce in practice.

True to the pattern established so far in this chapter, the law here had to obey two principles in conflict: moral philosophy, and a slave-owner's otherwise legitimate interest. Their disharmony becomes extreme in one text attributed to Ulpian, where Ulpian qualifies a suicidal slave as 'bad'—not so much morally bad but bad as a slave: he was a *malus servus*, not the sort you wanted. We shall come back to that idea of a slave's badness, but it is enough at this point to have seen that the suicide of a slave, as of a soldier, damaged his superior; and that the classical law, while seeking to relieve suicide of guilt regardless of who committed it, sought also, in justice, to recognize the interest of parties it might damage. The cost, buried in these influential texts, was conceptual disjunction.

In Roman law, then, soldiers and slaves were exceptions. The special obligations of each status required that its law be an enclave, a parenthesis in the law applicable to ordinary free citizens. If special attention has been given to the exceptions in this summary of Roman law it is because the law is here being reviewed from a medieval perspective. And for much of the Middle Ages, for most people, the quality that made soldiers and slaves exceptional in Roman law was not exceptional at all but universal: the quality of being, by

[55] *Dig.*, 21, 1, §1(1) (Ulpian, quoting an edict of the *aediles*) [ed. Mommsen, p. 305]; cf. *Dig.*, 21, 1, §43(4) (Paulus) [p. 311]; Wacke, 'Der Selbstmord', 72; Grisé, *Le suicide*, 277–80.

reason of one's status, under obligation to someone else. This obligation has an immediate bearing on suicide, since anyone under obligation who commits suicide, no matter what abstract moral considerations are involved, necessarily injures the person to whom he is obliged. Again it is logic that says so. Let me repeat the logic: *either* the obliged person is worthless, *or* his death brings material damage to another. There is no third way. This had to be the native assumption of Roman law on the subject, and the examples just given confirm that it was. It was an assumption showing through the eloquent philosophical overlay, at odds with it, and destined to change, in the Middle Ages, from being the recessive to being the dominant element in the law.

That somersault belongs to a later stage of the present story, and it is time to leave this one. What had to be seen has been seen, namely that in respect of suicide, Justinian's law was already on the move before any medieval scholar laid eyes on it. It carried, even then, a dialectic between two ages of Roman development, each with its own approach to the central question. The dialectic between the two approaches was destined to be tilted decisively when, some six or seven centuries later, a new generation of jurists read and expounded the same texts. That story will be told later. Meanwhile, we turn to the second main element in the written legal inheritance, canon law.

Canon Law: The Early Germanic Councils

To move from civil to canon law may be to move only inches among books in a library. But the shape, character, and historical trajectories of the two sets of texts belong to different worlds. The concerns of medieval canon law were on one hand narrower than those of civil, since many canons regulated only the clergy; yet at the same time they were broader—since other canons, concerning the laity, touched everyone at the most intimate points of his life, namely birth, marriage, and death. Although the two traditions came in due course to influence each other, their main shared quality, at this stage, remained only that both were laws, with a shared antiquity at many points.

The antiquity applies to their laws on suicide. Justinian reigned from 526 to 575. The first two known western canons on suicide date from 533 and 561, and the next two from within little over a century afterwards. Yet again, this apparent symmetry conceals differences, not least in quantity. The early canonical texts, though longer, are fewer, and bare of the jurisprudence that filled Justinian's collections. Any jurisprudence the canons had was implicit, in that the enactments sometimes contained an explanation of themselves, but almost no record survives of their discussion. Medieval lawyers inherited little but the texts. This paucity and bareness contributed to the canons' force

later: a single text, well known, served as a trumpet with an unmistakable sound, and one early canon, in particular, would become the authority *par excellence* quoted by later councils, canonical collections, penitentials, and in day-to-day decisions by bishops. These differences in the shape and size of canon law will dictate the way it is expounded here. I shall set each canon out verbatim and limit discussion to their terminology and phrasing, leaving the question of their background and social context until later, as a dark subject which needs a light of its own.[56]

The canons in question are four, and begin in the early sixth century. By counting them as four I am discounting an earlier enactment in this context, a canon passed by what is called the second Council of Arles which met between 442 and 604 (most probably in 455). Although the acts of this council were preserved in medieval libraries, and the canon is about suicide, it was not used or studied by medieval canonists. This is partly because the authority of the 'council' was in doubt (it was probably a private gathering), and partly because the canon touches suicide only obliquely, saying merely that the suicide of a slave is not to be blamed on his master (the master is not 'guilty of [the slave's] blood'). For all its interesting implications (which I shall recall in another context), the text had no palpable medieval influence.[57]

None of these demurs applies to the four authoritative canons. I shall therefore reproduce these in chronological order and then comment. The earliest is the fifteenth canon of the second Council of Orleans, meeting in 533.

II Orleans, canon 15 (ad 533)

The canon reads

The offerings made for those dead persons executed for a crime should in our judgement be received; unless they are shown to have killed themselves with their own hand.[58]

[56] Cf. Chapters 12–15.

[57] Ed. C. Munier, *Concilia Galliae, A. 314–A. 506. Corpus Christianorum, Series latina*, vol. 148 (Turnhout, 1963), p. 124: '[§53] Si quis famulorum cuiuslibet conditionis aut generis, quasi ad exacerbandam domini districtionem se diabolico repletus furore percusserit, ipse tantum sanguinis sui reus erit, neque ad dominum sceleris alieni pertinebit invidia.' Munier dates the council within the bracket 442–605. My '455' is a date commonly accepted, by students of Faustus of Riez, for his visit to the council. Of the acts, Munier lists eleven MSS of which seven contain this clause. The council's 'private' character: Munier, 111. The question of shifting blame for a suicide, raised here, will be addressed in the next volume.

[58] Ed. C. de Clercq, *Concilia Galliae, A. 511–A. 695, Corpus Christianorum, Ser. lat.*, vol. 148A (Turnhout, 1963), p. 101.59–61: 'Oblationem defunctorum, qui in aliquo crimine fuerint interempti, recipi debere censuimus, si tamen non ipsi sibi mortem probentur propriis manibus intulisse.'

Apart from brevity, the peculiarity of this canon is that its principal subject is not suicide nor, even, the prohibition of prayers for the dead. Its subject is executed criminals, and what it records is an exception, saying that criminals sentenced to death, but who kill themselves before execution, are not, like other executed criminals, to be the subject of 'offerings', that is, gifts made to the priest in expectation of Mass and prayers. This provision suggests that clergy must *already* have been refusing offerings for suicides, as well as those for executed criminals, in 533 when the canon was passed.

I Braga, canon 16 (ad 561)

The same is true of a canon giving a different perspective, thirty years later, in 561. It is the sixteenth canon of the first Council of Braga (in what is now Portugal. Braga was then the capital of an enlarged Galicia). The Braga canon runs:

> The council agreed that those who put themselves to death whether by [an] iron [blade], or by poison, or jumping from a height, or hanging, or violently by any means, no commemoration should be made for them at Mass, nor should their bodies be taken to burial with psalms: for many people are wrongfully performing these ceremonies through ignorance. The council agreed the same about persons executed for their crimes.[59]

Again, suicides share the stage with executed criminals; though at Braga, in contrast to Orleans a generation earlier, the two categories are allotted the same treatment. The Braga canon alludes to cases of abuse: 'multi . . . usurparunt'. The bishops at the council indulgently allow that the abuse is being committed 'per ignorantiam' thus implying, like the Orleans canon earlier, that the law they are declaring is one already in existence. Two further peculiarities in the Braga canon can be noted for later discussion. It enumerates methods of suicide rather than dwell on its psychological aspects (like motive) and, secondly, it is faintly ungrammatical, in that the nominative plural 'hi' in the opening line governs no verb. A more careful grammarian might have changed the subordinate clause to read 'pro his, qui sibi ipsis . . . nulla . . . commemoratio fiat'. A grammatical anomaly of this kind would be consistent with piecemeal composition where an old formula is augmented by additional clauses.

[59] Ed. J. Vives, *Concilios visigóticos e hispano-romanos*. España sagrada (Barcelona and Madrid, 1963), 10: 'Item placuit, ut hi, qui sibi ipsis aut per ferrum aut per venenum aut per praecipitium aut suspendium vel quolibet modo violentam inferunt mortem nulla illis in oblatione commemoratio fiat neque cum psalmis ad sepulturam eorum cadavera deducantur: multi enim hoc sibi per ignorantiam usurparunt. Similiter et de his placuit, qui pro suis sceleribus puniuntur.'

Auxerre, canon 17 (between ad 561 and 605)

The same pair of peculiarities attach to the third in the series of early suicide canons. It is the seventeenth canon of the Council of Auxerre, held at an unknown date between the beginning of 561 and the end of 605. The Auxerre canon runs:

> Whoever by his own will throws himself into water, or binds his neck, or throws himself from a tree, or strikes himself with iron, or in whatever way voluntarily puts himself to death; their offering should not be received.[60]

This Latin invites the same grammatical comment as that of Braga, in that the sentence should strictly have begun, not with the nominative *Quicumque* ('whoever') but with the genitive *Cuiuscumque* ('[the offerings] of whomever') and should have omitted the later genitive *istorum* ('their'). The difference between singular and plural reflects another slip. Singular verbs in the subordinate clause, representing the actions of one or other of its alternative subjects (separated by *aut* [or]) clash with that plural *istorum*, which qualifies the subject of the main clause, which should have read *ejus* (his).

The Auxerre canon has other peculiarities. Its designation of methods is irregular because the second and third method might, in principle, have been conceived as one: 'whoever . . . binds his neck [and] throws himself from a tree'. But that would have required an *et* (and), or even an indifferent *vel* (or), as their conjunction, and all manuscripts have the exclusive *aut*. Any imprecision in the description of method is made up for, however, by a kind of phrase shared by this canon with neither of its predecessors, a phrase concerned this time with intention: *se propria voluntate; voluntarie*. That repetition is in itself suggestive, because it betrays a certain insistence, a conscientious intrusion on a law which might otherwise have ignored intention altogether.

XVI Toledo, canon 4 (ad 693): attempted suicide

This sophistication is heightened in a fourth canon, added to the series in 693. It is canon 4 of the sixteenth Council of Toledo, in that year. The text is longer than the others and, like the Braga canon, refers to the suicide as a fact of experience. But Toledo concentrates now on attempted suicides. While the tendency to enumerate methods remains in vestige, the psychological dimension has now become dominant; and with it, better grammar. Indeed, far from being incorrect, the Latin errs if at all in the other direction by striving

[60] Ed. de Clercq, *Concilia Galliae* (see n. 58), p. 267.48–51: 'Quicumque se propria voluntate aut in aqua jactaverit aut collum ligaverit aut de arbore praecipitaverit aut ferrum percusserit aut qualibet occasione voluntate sua se morte tradiderit istorum oblata non recipiatur.' Cf. Harduin, *Acta conciliorum*, vol. 3, col. 443.

at rhetorical elegance. Because of this, and because the text is long, I shall split it into three sections.

The first is a general preamble, indicating the background, beginning with the title *De desperantibus* ('of those who despair'):

The duties enjoined on the priesthood should unquestionably include both the removal of ingrained vices with the hard sickle of repentance, and the excision, after ruthless and diligent search, of the ulcer which infects and spreads in that body in which it takes up lodging.[61]

The central section of the canon now identifies the specific 'vice' at which the law is directed.

For the contagion of despair has established itself so deeply in some men, that when they are punished by disciplinary censure or put in custody to complete a penance as a purge for their wrongdoing, they are attacked by the plague of despair, and try either to kill themselves by hanging from a noose or to end their lives with iron or by other means; and unless they are prevented by some counter-measure, the Devil gets his way with them.[62]

The third section of the canon, finally, prescribes a cure.

We therefore wish to put an end to this dreadful practice, and to apply an appropriate emollient to the anguish we have referred to; and to this goal our holy council here assembled decrees that whoever, entangled by such deceptions, shall escape death, shall be entirely cut off for two months both from the community of Catholics and from the body and blood of Christ. For it is fitting that he who seeks, in despair, to join his soul to the Devil should, by the censure of penance, be restored to hope and salvation.[63]

A longer text than the others, this one invites appropriately longer commentary. The canon concentrates on suicide and attempted suicide of a particular kind, namely that by persons condemned to punishment. It alludes to

[61] Vives (see n. 59), *Concilios visigóticos*, p. 501: 'Ad hoc sacerdotalis institutio debet sine dubio promulgari, ut et vitia inolita austerissima falce poenitentie desecet et ulcus, quod subito in membrorum compagibus exortum sauciat ac serpit rigidae invectionis conatu usquequaque detruncet.'

[62] Ibid.: 'Quorundam etenim hominum tam grave inolevit disperationis contagium, ut dum fuerint pro qualibet negligentia aut disciplinae censura multati aut pro sui purgatione sceleris sub poenitentiae satisfactione custodia [e] mancipati, incumbente disperationis incommodo se ipsos malunt [a]ut laquei suspendio enecari aut ferro vel aliis mortiferis casibus interimere, et nisi praebenti cujuslibet rei occasione suam nihilominus diabolus in eis perficit voluntatem.'

[63] Ibid.: 'Proinde huic nequissimae suadelae cupientes ponere finem, et malagmam congruam tali aegrimoniae providere, coetus nostri decernit sacratissima unio, ut quicumque de talibus decipulis inretitus, interemtionis evaserit casus, duorum mensium spatio et a catholicorum collegio et a corpore ac Christi sanguine sacro manebit omnimode alienus; quia oportet ut per poenitentiae censuram pristinae reddatur spei atque saluti qui animam suam per desperationem conabatur diaboli sociare.'

the problem as an actual one, long-standing and difficult to eradicate. Conversely, the rule it enacts is clearly new, and has been carefully thought out: 'malagmam congruam . . . providere . . . decernit'. The new law applies to living persons rather than dead. Finally, the enactment is remarkable for its moderation. In view of the supernatural penalty for the successful act, as referred to by Braga and Auxerre—eternal assignment to the Devil, and no prayers—the excommunication imposed on survivors is almost an extreme in the other direction. Its two months' duration compares, for instance, with a whole *year*'s excommunication imposed by similar contemporary legislation on persons who abstained from work on Thursdays in honour of Jupiter.[64]

The whole canon, finally, is itself an implicit commentary on its predecessors of Braga and Auxerre. Their dreadful supernatural deterrents had apparently not procured results, at least in respect of sentenced malefactors. Why should they have done, we may ask, for malefactors sentenced to death, if the latter were anyway to suffer the same non-burial as suicides? Perhaps that was why the second Council of Orleans, in 533, had taken trouble to differentiate the two sorts of offenders. For the message of XVI Toledo 4, to ordinary capital criminals, is that they will at least get a decent burial and posthumous prayers on condition they do not commit suicide. At all events, the Toledo Fathers in 693 seem to have learned lessons. They legislate for the living, and apply a moderate penance. Medieval treatment of attempts at suicide, as distinct from the completed act, will earn a chapter on its own later,[65] and I shall recall the Toledo canon in that context.

The four enactments quoted here from Iberian and Frankish councils have an importance of their own as the earliest known western ecclesiastical laws on suicide, and as destined to influence later generations. All councils tended to take up and expand on their predecessors' canons. The Braga canon in particular became a model, becoming the standard written justification for the inadmissibility of normal funeral customs for suicides, to be quoted as such into the late Middle Ages.[66]

The medieval fortunes of these canons will be followed in a later chapter. Meanwhile, in closing this one, let us consider again the apparent paradox that began it. The texts assembled by Justinian's lawyers sought to remove all stigma from suicide, where the Gallic and Iberian prelates sought, with an effort equally palpable, to maintain it. Both sets of legal provisions were promulgated at about the same time, and by authorities equally resolute in defending Christian orthodoxy. Apparent contradictions of this kind, how-

[64] Council of Narbonne, canon 15; quoted by E. A. Thompson, in E. James, ed., *Visigothic Spain* (Oxford, 1980), 55.

[65] Chapter 13, pp. 396–425 below.

[66] Examples are conveniently listed by Inhofer, *Selbstmord*, 124–5; and see below, Chapter 8.

ever, have proved an invitation to look deeper in search of the mechanisms that produced them. The search here has revealed critical differences between the eastern civil and western canonical legislation. The civil, eastern law was interested mainly in the conditions that entailed posthumous confiscation. This was a matter of property as befitted the interests of state lawyers. The western, ecclesiastical law-makers were not interested in property at all, only in burial rites and posthumous prayers, as befitted clergy.

This difference does not imply that the Byzantine lawyers and western bishops took the same view of suicide, or the opposite. It means only that their respective legislative energies went in different directions and answered to forces, intellectual and cultural, coming at them from different quarters. Our enquiries into the medieval treatment of the suicide's body and property showed that the background to the law on these two matters was to be sought on different cultural levels. The background of the law on the property was found among articulate legal arguments and principles, of a kind likely to be debated in treatises. That of the law on the body lay in the direction, rather, of symbolic, instinctive aspects of social behaviour. The same kind of distinction should be applied here to civil and canon law. The historical background to the civil law on suicide can be inspected through legal and philosophical doctrines of which, despite the fragmentary character of most of the literature, we know something because we can read it. The canons of Orleans, Braga, and Auxerre had their historical background too, since everything does, but only a fraction of that background was expressly set out in documents or treatises. That fraction differs from its civil counterpart, furthermore, in that it stretches away in time *after* the canons, rather than—like the philosophical writings that anticipated the *Digest*—chronologically leading up to them. That difference in chronological profile reflects the nature of the relation between medieval and ancient culture. Medieval written documentation reaches further down its cultural hierarchy than does ancient, and therefore constitutes a richer source for 'popular culture'. The historian's problem is only that, in the late and immediately post-Roman period, we have to manage with less evidence, and both in the post-Roman period and later that evidence needs more careful interpretation. This is because most of the canons' historical background lies in the less articulate cultural zones, where people's thoughts were expressed more in actions than in words (or the sort of words that get written down). Where we do get to know of them, it is usually by chance revelation, more or less indirect.

Religion, then, philosophy, and law: the purpose of these last three chapters, respectively on these three areas of pre-medieval tradition, has been to help discover attitudes to suicide, not for their own sake, in the classical or early Germanic periods, but in the European centuries from which most of

our documentation comes, the tenth to the fifteenth. The contribution of these three essays has been to set out the content and character of texts available, in those medieval centuries, to literate people with access to libraries. For medieval learned people commonly expressed their views, on any major subject at all, by choosing among old texts, and judging how to employ and gloss them. That way they maintained the precious conviction of being loyal to tradition. Views on suicide were no exception. Hence the value of looking first at the medieval book-chest. But it is the users of the book-chest, the medieval readers, whom we must now ask to step forward and answer questions. Their written inheritance offered them a wide choice of opinions and argument, with no absolute compulsion to choose one rather than another. Which did they choose? And how did they employ what they chose, and comment on it? To know what such learned people think and say may fall short of explaining everything that goes on in the social organism they belong to. But it is a first step, and the one now to be taken.

6

Theology: The Age of Reticence

The material introduced in the last three chapters could nearly all have have been found in a well-stocked library around the year 1300, the 'nearly' referring (as in most libraries now) to a different handful of omissions in each case. Some of the stock might have arrived recently—the Roman law, if the library was in northern Europe, very recently. Other subjects boasted a more continuous tradition. Canon law was one, kept alive as it had been by the copying of conciliar acts and penitentials in dark-age monasteries. More continuous still was the study of the Bible, with the reading and writing of commentary on it. This commentary cannot strictly be called 'theology' for those early centuries. Theology in the strict sense meant the systematization of biblical teaching, and was born only *c.*1120. Then it began at once to draw on what the ancients had called philosophy, whose deliberate and logical methodology made philosophy, in fact, one of theology's two parents, as the new 'divine science' (as it sometimes called itself) drew increasingly on the more speculative legacies from ancient thought. Before the 1120s, theology in that strict sense therefore did not exist; only its older parent did, in the form of a tradition of disciplined biblical and doctrinal study sometimes called divinity. But the *histoire de la longue durée* that we are engaged in demands an occasional liberty with nomenclature. Exploiting that liberty, I shall venture to extend the title 'theology' to cover the whole tradition.

What, then, did these theologians make of their written inheritance? Was suicide morally indifferent, or good, or bad? And if bad, why? The answers to these two questions will show how, and how far, medieval divines used the ancient doctrines on the subject that sat in their book-chests. The first question, for its part, is easy to answer. When confronted by suicide, medieval theologians of all periods accepted that suicide was not only bad but very bad indeed: *gravissimum*,[1] and indeed, in the opinion of many, the worst sin it was

[1] The expression of the widely used later medieval confessors' manual by Thomas of Chobham, *Summa confessorum*, ed. F. Broomfield. Analecta mediaevalia Namurcensia, 25 (Louvain and Paris, 1968), 448.

possible to commit. That *nec plus ultra* judgement is found in sources as far apart in spirit and time as Lactantius, in fourth-century Constantinople, and late medieval urban law in Europe, and at innumerable places in between.[2] It gathers force from the semantic elision, general for much of the Middle Ages and traceable through appropriate dictionaries, of our words for sin (*peccatum*) and for crime (*crimen*), since suicide could be said to be both the worst sin *and* the worst crime. Some divines, throughout the period, treat suicide as the sin against the Holy Ghost mentioned in the Gospel, as the sin 'which shall not be forgiven . . . neither in this world, neither in the world to come'.[3] However great God's mercy, some writers spelt out, it cannot help the suicide,[4] so that prayer for a suicide is useless.[5] Examples of these opinions could easily be multiplied.

There were also variants and adornments. The commonest was to epitomize the curse in the fate of Judas, whom many commentators said had sinned as badly, or worse, by killing himself than he had by betraying Christ. 'He added homicide to his first crime'[6] and 'the worst kind of homicide'[7] at that, a crime which 'was alone enough to secure your damnation even if you had not betrayed the lord'.[8] The sources and nature of these beliefs about Judas will be analysed in Chapter 10, but whatever their source, they served to entrench the belief that suicide, 'the sin of Judas', was uniquely heinous.

Like most curses, this one did not usually extend to explaining *why* its object was so wrong, but occasionally it takes a short step in that direction. Suicide is the worst sort of homicide, some formulations will say, echoing Jerome.[9] It is worse, for instance, than killing one's own daugh-

[2] Lactantius, *Div. Inst.*, bk 3, ch. 18 [*Pat. lat.*, 6, 405–10]; Lille ordinance of 1340 in *Ordonnances des rois de France*, ed. [D. F.] Secousse (Paris, 1745), vol. 7, p. 544: 'Que selon l'usage ou la Coustume dessus alléguié, nulz pour nul cas criminel ou autre, ne peut forfaire le sien avec le corps, posé encore que par desespérance il se noiase ou pendist, qui sont des plus énormes et villains cas qui puissent estre'. *Florilegia* of remarks of this kind will be found in the suicide monographs of Bourquelot (pt 2, e.g. 256, 265) and Bayet (324 [Lactantius], 424–9, etc.).

[3] Mt. 12: 32 etc. Nicholas I, *Responsa*, art. 98 (see p. 268); Peter Lombard, *Sententiae*, bk 2, dist. 43, ch. 1, *Sententiae in iv libris distinctae*, vol. 1. Spicilegium Bonaventurianum, 4 (Grottaferrata, 1971), p. 575.10–11; among commentators to take this up will be the Austin friar Thomas of Strasbourg, *Commentaria in IIII libros Sententiarum* (Venice, 1564), ad loc., fol. 200^{v}, who refers to this identification as a tradition.

[4] 'Ser Graziolo, cancelliere di Bologna' quoted in Benvenuto [de Rimbaldis] da Imola, *Comentum Super Dantis . . . Comoediam*, ed. S. P. Lacaita, vol. 1 (Florence, 1887), 248.

[5] Manual of Dhuoda, ch. 60; ed. E. Bondurand, *Le Manuel de Dhuoda* (Paris, 1887), 209: 'Pro omnibus est orandum, nisi pro eis forte, quod absit, qui a fide sanctae derivant Trinitatis, vel qui, in desperatione positi, dies in pejus finiunt suos.' Heresy and suicide are thus put on the same footing.

[6] Jerome, *Comm. in Mattheum*, bk 4, ch. 27; *Pat. lat.*, 26, 204C.

[7] Jerome, *Comm. in Amos*, bk 2, ch. 5; *Pat. lat.*, 25, 1052C.

[8] Bruno of Segni, *Comm. in Mattheum*, pt 4, ch. 27; *Pat. lat.*, 165, 299B. Cf. *Jacob's Well*, ch. 17; ed. A. Brandeis. Early English Text Soc., 115 (London, 1900), 113.

[9] e.g. Pseudo-Bonaventura, *Dieta salutis* bk 3, ch. 4; quoted by Bayet, 429 from *S. Bonaventurae Opera* (Venice, 1751), vol. 13, p. 285.

ter.[10] Suicide is robbery, others will claim, again of the worst kind.[11] Some of these phrases betray the influence of one of the more expansive texts from before the Middle Ages, like Augustine's contention that suicide is the killing of an innocent person,[12] or the late Roman law dictum that nothing is beyond the man who could attempt to kill himself.[13]

Beyond these hints of a rationale behind the curse, the only colour added to these short phrases is the association of suicide with the Devil. This diabolic association is so frequent that, again, pages could be taken up by quoting examples. Readers of the accounts of suicides in the previous volume of this work will recall that many of them, from historical and legal as well as religious sources, can slip a clause like *diabolo instigante* into the narrative. The clause was put in to acknowledge that it was the Devil who made people kill themselves, and the Devil, equally, who took their soul when they died. The same regular feature will be found again when we explore the theme of suicidal temptations in the final volume of the trilogy. The privileged character of suicide is repeated in this feature. Suicide is conceived as an extremity, with a unique claim on the Devil. For several texts imply that, while the Devil and his demons may provoke a range of sins, it is suicide alone which always, unmistakably, bears his mark. Thus the noose that hanged Judas was 'the Devil's noose'.[14] Burchard of Worms' *Corrector*, written just after the millennium, bears especially telltale witness to this association. In a section to be taken up by other canonical collections in the eleventh and twelfth centuries, Burchard identifies many dreadful sins like the killing of fathers, mothers, spouses, servants, and other members of the family, including abortion and the drowning and burning of babies, all of them occasions, it might be thought, for a mention of the Devil as instigator. But only one of the section's short, interrogatory clauses mentions the Devil. It requires the parish priest to ask if there is any parishioner who on the impulse of the Devil (*diabolo impellente*) has killed himself.[15] Perhaps Burchard's solitary attribution of suicide to the Devil arose because he was writing a penitential which imposed penalties for sins. No penalty, after all, could be imposed for suicide, so let it be cursed with all

[10] William of Auxerre, *Summa aurea*, tract. 50, ch. 5 [ed. J. Ribaillier, 4 vols. Spicilegium Bonaventurianum, 16–18, (Paris, 1980–6), p. 992, 125–8], comparing Samson and Jephtha.

[11] Francesco da Buti on *Inferno* XIII [*Commento . . . sopra la Divina Comedia*, ed. C. Giannini, vol. 1 (Pisa, 1858), p. 304]: 'niuna è maggior rapina che rapire a sè medesima la vita o il membro'; cf. *L'Ottimo Commento*, ed. Accademia della Crusca, vol. 1 (Pisa, 1827), p. 248: 'Dio non soffera che alcuno riabbia quello ch'elli stesso s'ha tolto.'

[12] Thomas of Chobham (see n. 1), 448; and cf. above, p. 114.

[13] Chaucer, *Parson's Tale*, line 695; ed. F. N. Robinson *The Complete Works of Geoffrey Chaucer* (Oxford, 1966), 250; cf. A. Sachs, 'Religious Despair in mediaeval literature and art', *Mediaeval Studies*, 26 (1964), 231–56, on p. 244; and above, p. 175.

[14] Angelomus, see below, p. 195.

[15] *Decretorum libri XX*, bk 1, ch. 94, esp. §11 [*Pat. lat.*, 140, 573–4]; cf. Regino of Prüm, *De disciplinis ecclesiasticis*, bk 2, ch. 5 [*Pat. lat.*, 132, 282C].

the more vigour. This sense of impotence seems to have affected moral theologians' views more widely. God alone can punish suicide, they all agreed,[16] so let his penalties be envisaged as more severe, to make up for the suicide's immunity from anything more tangible.

These condemnations, from a miscellany of theologians, answer the first question. They all thought suicide was a sin or crime of exceptional, some said of unique, gravity. Any theological writer provoked to utter on the subject, throughout the Middle Ages, if he uttered at all, would normally repeat the evaluation just summarized as if no one was ever likely to ask for its rationale. So why should he give one?

The historian is in a different position. Having established the facts his most important question is 'why?' A full explanation for the theologians' view may not, in the end, be attainable from their own utterances—so terrible and mysterious (not to say maverick) is the subject of their condemnation. But a start must be made with them. The next two chapters will accordingly put the theologians under interrogation, to catch any words they may offer. Then the same will be done with lawyers; and after that, moving beyond these learned groups by stages, we shall consider (in Chapters 9 to 16) what social and traditional forces may have been at work in shaping their opinions.

Before the review of theologians' answers begins, one fact must be emphasized. It is the sheer mass of theology and its aliases. If any field of medieval activity had privileged access to record it was theirs. The first result of this is that, though the writers may have been relatively few in each generation, their writings, preserved over twenty or thirty generations, form a corpus so large as to demand its own approach. No historian can pick through it all. Readers unfamiliar with medieval theological writing may see this problem from a single example. Migne's *Patrologia Latina*, devoted to Latin theology in the word's broadest sense, has over 200 volumes of roughly a thousand pages each, and although the medieval period (by any definition) does not start before Migne's hundredth volume, the whole series ends in 1215, before the spread of universities, schools, cheaper writing materials, and much else, led to the writing explosion of high scholasticism, with Aquinas, Bonaventura, and the literally hundreds of *scriptores* in their two orders—to mention no others (either orders or writers).

The extent of the relevant literature matters now for two reasons. The more substantive is that the investigation of people's thoughts depends as much on what they do *not* say as on what they say, and on their patterns of speech and silence. The condemnations of suicide just reviewed, for instance, though

[16] Lactantius, *Div. Inst.*, bk 3, ch. 18 [*Pat. lat.*, 6, 407A]: 'Nam si homicida nefarius est, quia hominis extinctor suus est, eidem sceleri obstrictus est, qui se necat, quia hominem necat. Imo vero majus esse id facinus existimandum est, cujus ultio Deo soli subjaceat.'

they could be augmented many times over, stand to all theological writing as an almost infinitesimal fraction, so infinitesimal as to be all but unnoticeable to readers not looking for them. This must be borne in mind when I speak, as I shall, about theologians' 'reticence'.

The sheer volume of theology matters for a second reason, this time a procedural one. To enquire into the medieval theology on any subject, even a single moral question, and one which (it will be shown) theologians long avoided, presents a problem of approach quite different from that used to hunt out cases of suicide in the previous volume. There, the suicides had to be gathered wherever they could be found, and each inspected as it were through a telephoto lens, whereas here the historian has to use a wider angle of vision in the hope of catching the character of theology by judicious sampling. We must be content with a hypothetical outline, always aware that, somewhere in those hundreds of thousands of pages, there may lurk sentences to damage it. There is no choice. As students of our collective past, we either remain unadventurous and allow our intellectual itineraries to be dictated entirely, where permitted at all, by the contours of the surviving evidence, or—there is no third way—we plan our own route, and with all reasonable precaution against ambush, tread purposefully along it.

The route to be taken here will divide the theological history of suicide into two phases, shared out respectively between this chapter and the next. I have called the first the age of reticence about suicide, and the second that of its discovery as a subject of discussion. The phases are not exclusive. As with most evolutionary processes, the discovery began with glimmers. The later sections of this chapter will identify isolated areas of writing where suicide *was* debated, and also the reasons why it was. An understanding of these reasons will help explain why, as will become plain in the chapter that follows, it was in the thirteenth century that the theological discovery of suicide became complete. First, however, we must establish that the preceeding age was one of comparative reticence. The reticence can best be spotted by a look at early medieval biblical commentary.

Biblical Commentary

Reformation polemic fed the assumption that medieval theologians were not interested in the Bible, only in their own additions to it. Whatever other hazards that notion may have survived, it could not outlast the life work of the late Beryl Smalley with her *The Study of the Bible in the Middle Ages*[17] and other writings. The truth is now widely recognized to have been the oppo-

[17] Oxford, 1952; often reprinted.

site, that is, that the text of the Bible was subject to assiduous study and commentary throughout the period. That is not to say that sixteenth-century polemic did not have an element of truth in it. Scholasticism, with its tier upon tier of systematization of biblical study, did, in the event, engender at least a potential distraction from what was known as the Sacred Page. But the chief consequence of that, as seen from the viewpoint of the historian looking across the centuries backwards, was to make the Bible even more central to such learning as there was in the early Middle Ages. Then, the Bible stood on its own. Books were in short supply, and divines had to concentrate on essentials. The Bible, in and out of its liturgical use, loomed correspondingly large, so that the study of divinity consisted largely of reading it, and in the reading and writing of commentary on it.

We saw that the Bible mentions suicide some eight or nine times, and also that, although most of the people who commit suicide are bad characters, the biblical writer never pauses to say that the act of suicide itself is wrong, in so many words. Instead he left enough ambiguity to allow for comment. In the Middle Ages, this fact drew out a few of what other thoughts, external to the divine page, might pass through a commentator's mind. The first observation to be made is that usually no thoughts did so. Commentary of the period often forgoes opportunities to expand on the suicidal aspect of those eight or nine cases. It pauses only, if at all, to explicate the text with a paraphrase. The unsystematic character of the handful of comments that do exist might indeed lead us to dismiss this modest ensemble as hardly worth the trouble of study. Second thoughts dictate otherwise. Partly *because* the comments are few and unsystematic, they can also be original and, carefully read, will be recognized both as anticipations of themes found later in more elaborate form, and as proof that these comments were all there were. They do not represent a large hidden corpus of commentary on the subject, which would have left signs that there were standard accepted traditions.[18] A few examples will illustrate this.

Bede and four Carolingians

The first is a commentary by Bede, writing *c.*720 in Northumbria. Among Bede's biblical commentaries was an *Allegorical Exposition of Samuel*.[19] The second book of Samuel, we saw, tells of Saul's suicide. Bede's allegorization of

[18] Petrus Cantor, *Summa de sacramentis*, pt 2 [ed. J.-A. Dugauquier, Analecta mediaevalia Namurcensia, 7 (Louvain, 1957), 352.50–1]; Robert Grosseteste, *De decem mandatis* [*c.*1230], [ed. R. C. Dales and E. B. King. Auctores Britannici Medii Aevi, 10 (Oxford, 1987), p. 61, 27]. The silence of early divines on suicide was noticed also, on the basis of a different set of texts, by Bayet, *Le suicide* esp. p. 374.

[19] *In Samuelem prophetam allegorica expositio*; *Pat. lat.*, 91, 499–714.

it echoes the biblical phrase that Saul 'died in his sins', and then praises unequivocally the men of Jabesh-Gilead who gave Saul's bones honourable burial. Is Bede here explicitly quarrelling with the provisions of I Braga 16, which forbade the decent burial of suicides? The answer is no. For this is allegory, and Bede explains that:

> Some great man among the faithful may die a spiritual death *by falling into sin* [my emphasis]. It most commendable, if so, if those to whom he formerly performed the most good should assist him towards a new life and that by their fervent prayer, offered in a spirit of compunction, the man's corporal and spiritual good deeds should be made known and commended to his Creator.[20]

Bede thus makes nothing whatever of the chance to comment on the suicidal character of Saul's death.

Bede's restraint is the more noticeable when compared with a second example. This is a set of *Questions* on the books of Samuel, Kings, and Chronicles, written about a century after Bede by Bishop Claudius of Turin.[21] The books on which the Claudius *Questions* are based include three out of the five Old Testament suicides, as reviewed in Chapter 3, so that Claudius had opportunity to comment on all of them. He comments on only one: that of Saul, and he says it was wrong. To prove this, Claudius copies a short extract from St Augustine's anti-suicide chapters in Book I of *City of God*.[22]

The same relative silence is apparent one generation later in a third example, from Angelomus of Luxueil.[23] This Burgundian monk commented on the same books as underlay Claudius' *Questions*, but did so with marginally more interest in the moral aspect of suicide. While he can tell of Zimry's brief reign and suicide, with no comment[24] on the latter, Angelomus is roused to say something of Achitophel's self-hanging after King David had rejected his bad advice. Angelomus remarks:

> It is fitting that such people, who seek to corrupt another's life by bad counsel, should end their own in the noose of the Devil and of their own malice. Thus did Achitophel die in his own house by hanging, having laid a trap for the life of another.[25]

Laqueus diaboli: the expression is familiar but not from the Bible. Rather it is from St Augustine's *The City of God*, probably near to Angelomus's arm as he wrote.

The biblical suicide most provocative of comment was that of Judas, in Matthew 27. In writing on this Gospel, two ninth-century commentators

[20] *Pat. lat.*, 91, 714B. Braga: p. 183 above.
[21] *Quaestiones xxx super libros Regum*; *Pat. lat.*, 104, 623–834.
[22] Ibid., 104, 744, and 747–9.
[23] *Ennarrationes in libros Regum*; *Pat. lat.*, 115, 243–552.
[24] *Pat. lat.*, 115, 476C. [25] *Pat. lat.*, 115, 372C.

have more to say. Their difference of approach, from each other and from immediate predecessors, confirms that no fixed tradition has yet appeared to establish views on this subject. Christian of Stavelot's *Exposition of Matthew's Gospel* is datable to *c.*865. It is the only dark-age commentary to pause at any length on the intrinsic wrongness of suicide. Once more the author relies for argument on St Augustine, but he now adds a learned allusion, absent from other commentators, to the ancient legal practice of mutilating suicides' bodies.[26]

The other ninth-century commentator to expand on Judas' suicide in Matthew was Paschasius Radbertus. Paschasius wrote *c.*854,[27] and he too reflected on the traitor suicide. But Paschasius seems to echo Origen, in speculating on Judas' motives. Judas had tried to repent, Paschasius points out, and he goes further. Judas may even have hanged himself in the mistaken hope of being in the next world before Jesus so that he could fall at Jesus' feet and ask for pardon the moment that Jesus himself died. Paschasius here makes his own a reading he may have found in Origen, and whose presence is a legend fairly well known in the East, which I shall be mentioning later.[28]

The investigation of these patterns of speech and silence could be taken further. For instance, a study could be made of commentary on several other biblical texts destined, in due course, to invoke reflections on suicide. But it is unlikely that their message would be different. For instance, Bishop Atto of Vercelli (†961) wrote a long exposition of St Paul's epistles, and duly came to the words in Philippians 1: 13 where St Paul 'longed to be dissolved and be with Christ'. These words were destined to make more than one commentator add that this did *not* mean Paul wished to kill himself. The thought of making this interpretation never crosses Atto's mind.[29] Again, in Job 7: 15 the suffering Job says 'My soul has chosen hanging, and my bones, death. I have despaired and cannot bear to live longer.' Gregory the Great's enormous *Moralia in Job* (*c.*580), while elaborately allegorizing Job's words as referring only to a spiritual 'death to the world', remarked on the obvious danger that Job might be understood as avowing an intention of suicide, picking up the implications of 'despair' and adding explicitly, 'perish the thought that the holy man should have despaired of divine mercy . . . in the sense of impaling himself on the robber's sword of despair.'[30] In the following centuries

[26] *Pat. lat.*, 106, 1416B; cf. above, p. 36.

[27] *Expositio in Matthaeum*; *Pat. lat.*, 120, 31–994, esp. bk 12, ch. 27 [cols 928D–976A].

[28] *Pat. lat.*, 120, 930A. Below, pp. 358–64.

[29] *Pat. lat.*, 134, 591C–592A. Cf. below, pp. 236–7.

[30] *Moralia in Job*, bk 8, ch. 26; ed. M. Adriaen, *Corp. Christ., Ser. lat.*, 143, p. 417.32–6: 'Absit enim, ne vir sanctus de divinae misericordiae largitate desperet, ne gressum cordis a profectu initimi itineris subtrahat, ne amore conditoris deserens, quasi a duce destitutus in via remaneat, et confossus gladio latrocinantis desperationis ruat.' The Vulgate text reads 'elegit suspendium anima mea, / Et mortem ossa mea. / [verse 16] Desperavi, nequaquam ultra iam vivam.'

Gregory's remark fell on deaf ears. Early in the tenth, St Odo of Cluny (†942) wrote an *Epitome* of the *Moralia*, and did not think this implication worth bothering about. Odo's *Epitome*, it is true, is only about one third of the length of Gregory's original; it is none the less significant what Odo chooses to ignore.[31]

We are therefore left with a handful of comments on actual suicides in biblical narrative, which commentators could not ignore. That handful of comments teaches something by its paucity and something by its variety. Each commentator said that which was right in his own eyes. All that can be said of any tradition they might have formed is that, between them, they mention three elements destined to reappear later: reference to Augustine's *City of God*; the invocation of legal sanctions for suicide; and the Devil. When anyone did pause to condemn suicide, these examples suggest, these were the weapons to hand. All had a future.

The *Glossa ordinaria*

This future is more fully anticipated in the *Glossa ordinaria*, a work which marked the culmination of early medieval commentary.[32] The most likely explanation of its origin, amid several uncertainties, is that it was written as a standard gloss on all biblical books, by teamwork between Auxerre, Paris, and Laon, led especially by the brothers Anselm and Ralph of Laon *c.*1080–1110. The lineaments of theology are already apparent in the *Glossa*'s discussion of suicide. That does not mean such discussion was at all extensive, but its paucity again linked it to past and future. The suicides of Samson, Abimelech, and Achitophel are passed over with no explicit remark on the moral heinousness of the act beyond the aspersion, in Achitophel's case, that by giving corrupt advice he was caught in his own 'noose of trickery'.[33] If the authors of the *Glossa* are provoked to speak it is by two other biblical cases.

One was that of Saul.[34] The Laon authors' approach to Saul was characteristic of their school in being psychological. Allegorizing the account of it in II Samuel, the *Glossa* notes that the Philistines carried Saul's head home in

[31] *Pat. lat.*, 133, 183C–184A. I have measured Gregory's *Moralia* at about 460,000 words, Odo's *Epitome* at about 153,000.

[32] B. Smalley, *Study of the Bible* (see n. 17), 46–66. Entry to literature on the *Glossa* published since Beryl Smalley's book can be gained through M. Gibson, 'The Place of the *Glossa ordinaria* in medieval exegesis', in K. Emery and M. D. Jordan, eds., *Ad Litteram* (Notre Dame, Indiana, 1992), 5–27, reprinted in M. Gibson's collected essays, *Artes and the Bible in the Medieval West* (Aldershot, 1993), as ch. 15. I have used the edition wrongly attributed to Walafrid Strabo in *Pat. lat.*, 113–14.

[33] *In librum secundum regum*, ch. 7 [*Pat. lat.*, 109, 107D]. Samson: *In librum indicum*, bk 2, ch. 20 [*Pat. lat.*, 108, 1197C–99A], and Abimelech, ibid., ch. 13 [col. 1175CD].

[34] *In librum primum regum*, ch. 31 [*Pat. lat.*, 109, 70].

triumph and boasted that it was they who had killed him—as distinct from Saul's having killed himself. This provokes the *Glossa* to reflect on the psychological mechanisms that accompany suicide. It is thus, the authors write, that the Devil boasts of having killed 'the desperate' (*desperatos*, a word which can only allude to actual suicides—an example of whom we have found in a miracle recorded in Laon itself in Anselm's period).[35] When King David mourns the death of his wayward enemy with the canticle 'How are the mighty fallen!', the *Glossa* continues in the same vein:

> This is how the pious kind of Christian mourns those who, as they battle against demons, fall down in this slippery world, who, forgoing all hope of recovery, kill themselves with their own dagger as Saul did by running on his sword, that is, in pernicious despair of eluding the Ancient Enemy. When this happens, the Philistines (that is, evil spirits) carry off the spoil from the dead, ascribing the victory to their own valour.[36]

Is the *Glossa* here exculpating the act of suicide by ascribing its causation to demons? It comes close to doing so, but no more. For the claim that it is demons that caused Saul's death is, according to the *Glossa*, one made only *by* the demons, against the facts. But it is not so much the demons' mendacity that the *Glossa* stigmatizes. It is the damage they do. Saul's impulse for suicide arose, after all, because he seemed to be failing in a battle against the Philistines, and the Philistines are an allegory of demons. So the demons do play a front-line role. Saul gets a measure of sympathy. At least, the prophet King David showed sympathy, and the *Glossa* goes out of its way to endorse David's mourning, more emphatically, even, than Bede had endorsed the piety of the men of Jabesh-Gilead who gave Saul honourable burial.[37] The *Glossa* might, like some of its predecessors, have ignored both the suicidal character of Saul's death and its mourning by the supposed author of the psalms. Instead it dwelt on both. In respect of both the psychology of suicide and an appropriate attitude of survivors, it strikes a note of audible dissent from the 'curse and forget' approach.

The *Glossa* strikes a new note also in a second direction. This is apropos of the suicide of Razias, the only suicide presented by the Bible in a positive light. Maccabees, where Razias' death appears, had a special status among late dark-age commentators.[38] Judas Maccabeus had defended the Jewish temple against the armies of the unbelievers. The military heroism exalted by the book was especially appropriate to late tenth- and eleventh-century Christians, threatened as they were by pagan invasions. It was so appropriate, that

[35] *The Violent against Themselves*, 300–1.
[36] *Pat. lat.*, 109, 70CD. [37] Cf. *Pat. lat.*, 91, 714B; above, p. 195.
[38] For the following: J. Dunbabin, 'The Maccabees as exemplars in the tenth and eleventh centuries', in K. Walsh and D. Wood, eds., *The Bible in the Medieval World: Essays in Memory of Beryl Smalley*. Studies in Church History, Subsidia, 4 (Oxford, 1985), 31–41.

they overlooked that these were the Jews of *after* Christ's time, and indeed that I Maccabees, for its part, is the only book in the Vulgate not so much as even to mention the name of God. During the twelfth century, other distant heroes, especially those of Rome and others in the *Chansons de gestes*, will take over this ideological role, and free critics to downgrade the book of Maccabees as apocryphal. Then the problem of Razias would disappear. But *c.*1100 the Jewish heroes were still role models, and this was what made Razias' suicide, *à la* Roman hero, a dangerous example. This, at least, is how the *Glossa* views the story of Razias. The *Glossa* authors are spurred by the danger (in a manner we shall see later in respect of ordinary Roman suicides) to explain why suicide is wrong. II Maccabees, the *Glossa* says, might make 'simpler souls believe it more desirable, in a crisis, to bring death upon oneself, by one method or another, than to fall alive into the hands of sinners'. The *Glossa* therefore adds a summary, longer than any in the commentaries so far, of the suicide chapters *The City of God*.[39]

Taken together, the comments of the *Glossa ordinaria* are saying two things at once. Suicide was bad, so that no one should think it heroic, in the manner of Razias. Yet those who committed suicide could be compared to warriors fighting against demons and defeated by them. Pious Christians, on the model of the men of Jabesh-Gilead who mourned for Saul, did right to mourn them. We know, from the Laon miracle-book, that the Laon scholars cannot have been ignorant of actual contemporary suicide, which may have been commoner in practice than in the literature available to them. For the author of that miracle-book records the suicide in it as a death 'we have *read* of as rarely having happened'.[40] It is enough that the *Glossa* authors knew of such cases to remember that here possibly, as in other respects certainly, the Laon scholars expressed views coloured by living experience. Suicide, they concluded, was the result of defeat by demons.

The *Glossa ordinaria* was meant to be an influential work. It proved so in ways not measured only by its number of surviving manuscripts, but by the fact that, until about 1220, it was the main academic set book for biblical study, at least of the kind that involved knowing what the Fathers had said about its problem passages. Although overtaken in the thirteenth century by more specific apparatuses with similar purposes, the *Glossa* retained the respect due to an ancestor and to a useful reference book.[41] So its two-pronged approach to suicide, as expressed in its views of Saul and Razias, cannot have avoided being read by succeeding generations. For all that, the *Glossa*'s approach did not attract development. Only in quoting St

[39] *Pat. lat.*, 109, 1254B–55C.
[40] *Pat. lat.*, 156, 985A: 'quod a tempore Judae proditoris raro contigisse legimus'.
[41] Gibson, 'The place of the *Glossa ordinaria*' (see n. 32), 5–6, 19–21.

Augustine's chapters did the *Glossa* set any sort of example, as it had followed one.

The eight or nine biblical suicides, then, offered early medieval commentators an occasion to dilate on suicide but, with the exceptions mentioned, they were not swift to exploit it. There was, in fact, a further exception, though it was one whose effect on educated opinion—as distinct from its capacity to reflect it—is too hard to gauge to set it squarely beside the *Glossa* as a voice of theology, and whose main manifestations belong in the thirteenth and later centuries, when systematic theology had already made suicide part of its own working day. I refer to pictorial and sculptural illustrations of biblical suicide themes. Some of the eight or nine biblical suicides, for instance, earned illuminated initials, which transmit their own, often mysterious message. Plates 5–6 and 8–16 will illustrate these messages and their mysteries better than words can. I have thought it best to leave such words as they demand to the notes on illustrations at the start of this volume, rather than try—over the dangerous, largely unchartable ground of relationships between artists and theologians—to draw them directly into an intellectual history with a momentum of its own, distinct for important stretches of its range from that of the artists.

For their part, those who commented on the Bible in writing, in the age when they had divine science largely to themselves, remained reticent on its biblical episodes. It is not too hard to explain this. It was partly because their text itself did not offer any stimulus. If the original Hebrew and Greek writers of the Bible had been content to downgrade suicide as one narrative detail among others, what motive did medieval commentators have to depart from that example? That was part of the reason. But another part was the contemporary absence of other, non-biblical stimuli. Commentators did not themselves wish to dilate on suicide, and there was no reason why they should. This motivation, or lack of it, is confirmed by what happened afterwards. As learning ramified and developed during the twelfth century, the missing stimuli began to appear, and occasioned the first hesitant steps in the discovery of a new theological subject.

Peter Abelard

The stimuli which ended by breaking the learned silence were two, and they worked sometimes in combination, sometimes separately. They appear first in combination, in the writings of Peter Abelard (†1142). Creators are seldom exactly like what they create. Abelard's pioneer role in the creation of theology meant he was not quite a theologian himself. His mind was too original.

He can be described, better, as an indefatigable thinker on matters religious and moral, with a fiercely independent mind, and the sharpest eye of his generation for fissures in the reigning orthodoxies. Abelard's autobiographical *History of my Calamities* recorded, around 1131–2, how he had had gone to Laon *c.*1113 to hear the famous Anselm of Laon expounding Ezekiel, and how in Abelard's view, that father of the *Glossa ordinaria*, 'filled the house with smoke rather than light'.[42] The caricaturing of an *ancien régime* belongs to the armoury of revolution. The outcome of Abelard's revolution owed as much, in fact, to the work of Anselm and his colleagues as it did to the *enfant terrible* who mocked them. But it was the *enfant terrible* who led the definitive change in the study of divinity, by planting in the schools of Paris a lasting recognition that the study not only could bear a logical approach, but required it.

The name of the discipline that eventually resulted, theology, was announced in the titles of two of Abelard's own books; but there was an element of defensive public relations in Abelard's choice of those terms, and the flavour of his mind is better caught in the defiantly named *Sic et non* ('Yes and no'), probably written soon after his first public disgrace in 1121. The form of this work—consisting of authorities quoted for and against each of a series of propositions—may have have had a precedent in canon law. But it had none in the higher matters of divinity and ethics to which Abelard applied it. It brought into the open a dilemma that had gnawed at many generations of divines without anyone's having quite the perspicacity to identify it. The dilemma was that, although the Truth was single, and the Bible and Church Fathers its authentic channel, these authorities did not always agree what that single Truth was in any one case. Abelard proved this in 159 chapters. Each chapter was headed by a proposition of faith or morals, followed by the two sets of authorities. The chapters made no attempt to reconcile the authorities, and would have remained an act of mere impertinence but for the book's long preface, perhaps added with just that awareness. The preface explained, with a lucidity which still dazzles its modern readers, the principles by which discordant authorities could and should be reconciled: namely, by critical examination of their discriminatory authority, language, context, intent, and historical circumstance. Where Abelard's other books would publicize the name of the new science, the 159 chapters of *Sic et non* therefore proved its necessity. There *had* to be theology. Abelard's influential preface set out the initial principles for reconciling authorities, and the rest followed.

In reviewing the medieval learned inheritance, it was seen that suicide was a subject on which early Christian Fathers, all of the highest authority, could

[42] *Historia calamitatum*, ed. J. Monfrin, 3rd edn (Paris, 1967), 69.202 and 68.170–1.

disagree, and in particular, that Augustine disagreed with his predecessors on whether suicide was permissible to protect virginity. Abelard was on the look-out for issues disputed by the Fathers, and would have been wasting his access to libraries if he had missed this one. Nor did he have any reason for reticence about it, for he was not trying to resolve the issue, only wishing to prove, systematically, that there were such things as disagreements between the Fathers.

Suicide was thus compelled into the arena of discussion by the very logic of what the writer was trying to do. We shall see the same compulsion at work with more decisive effect when suicide reappeared in moral theology in the early thirteenth century. It was already there in Abelard in germ, if a germ big enough to have overcome a hesitation he probably felt in introducing suicide to his book at all (its chapter is the last but one). Yet to miss suicide out would have been treachery to the cause he had in hand, since Abelard knew, with his sharp eye and his access to sources, that tradition on this point contained a flagrant contradiction, and it was flagrant contradictions he was after. So there suicide is, in chapter 155.[43]

The chapter's title proposition reads 'That it is lawful, or not, for a man to raise a hand against himself in some circumstances [*Quod liceat homini inferre sibi manus aliquibus de causis et contra*]'. By 'man'—the double meaning fits better in Latin than in latter-day English—Abelard meant 'woman', and the 'circumstances' he had in mind were attempted rape, whose capacity to license suicide had engendered disagreement between, on one hand, Eusebius, Jerome, and Ambrose (who said *sic*), and on the other, Augustine and Macrobius (who said *non*). Obedient to the style of his book, Abelard arrayed central passages from these authorities on each side, his quotation from *The City of God* being one third as long again as the longest to be found in any earlier medieval commentator (lines 16–85).

Thus Abelard was spurred to mention suicide in *Sic et non* by a contradiction within Christian tradition; a slender contradiction, touching only the relative values of two almost equally high Christian ideals, but one serving his purpose. But this was not Abelard's only utterance on suicide. For the domestic Christian difference, which had served as suicide's passport into *Sic et non*, was nothing like the head-on clash on the same subject with which Christianity had confronted its Stoic predecessor. This clash, as we shall see, would provoke other Christian utterances against suicide. It was already at

[43] *Sic et non*, ch. 155; ed. B. McKeon Boyer and R. McKeon. Peter Abailard, *Sic et non* (Chicago and London, 1976–7), 518–22. MSS and numberings of chapters: E. M. Buytaert, 'The Greek Fathers in Abelard's "Sic et non" ', *Antonianum*, 41 (1966), 413–53. The edition in *Pat. lat.*, 178 has only 154 chapters against the McKeons' 158, and the suicide chapter [cols 1603–6] becomes the last, i.e. no. 154.

work in Abelard. While logic was one of the stimuli pushing suicide into his moral philosophy, the second was his classical reading, whether or not he had gained it through *florilegia*, or collections of extracts—or even tuition by Heloise. Abelard's temperament made him a natural admirer of classical philosophers, whom he saw as having aimed at essentially the same truths as those taught by the Church, though they certainly fell short in some particulars. His book *Christian Theology*, written in stages a few years after *Sic et non*, sought hard to demonstrate this. That it did not, alas, fight hard enough was proved, for all the book's defensive title, by its condemnation in a Church council at Sens in 1141.

This condemnation fastened on other features of *Christian Theology* than its doctrine on suicide. The only unconventional feature in this doctrine was that it was uttered at all, and at such length. *Christian Theology*'s thirteen little chapters on suicide, totalling some 1,750 words, constitute the longest medieval treatment of the subject until that date.[44] The author's attempt to reconcile classical and Christian authorities includes a consideration of the moral ideals they shared. In respect of these ideals (he said) Christians could do well to emulate the Ancients. This applies, for instance, to the latter's fortitude, and to the example set in it particularly by the cynic philosopher Diogenes. Since Diogenes valued his own life so cheaply as to kill himself, what might he not have achieved as a Christian in the time of persecution (§77, lines 1088–1110)? Or what of Theobrotus, who read Plato's *Phaedo* on the immortality of the soul and then jumped to his death (§82, lines 1180–1; §86, lines 1256–63)? Abelard knows these examples go too far and call for refutation. The refutation he leaves to mostly the same authorities as those earlier paraded in *Sic et non*, who are quoted at the same length (though there is less of Jerome because it is not the privileges of virginity that are in issue [§77, lines 1092–1104; §80, lines 1140–44]) to confirm that, whatever the classical sages' virtues may have been, they should *not* have killed themselves. Even Plato and Macrobius say so, Abelard stresses (quoting the *Commentary on the Dream of Scipio* at length [§85, lines 1218–55]), and they were mere philosophers.[45] Because Abelard is now retelling classical anecdotes and adding commentary of his own, these chapters of *Christian Theology* form a treatise about two-thirds longer again than the suicide chapter in *Sic et non*. Their length is indeed a 'record' for the previous seven centuries.

[44] Ed. E. M. Buytaert, *Petri Abaelardi Opera Theologica. Corpus Christianorum, Continuatio Mediaevalis*, 12. 2 vols (Turnhout, 1969), vol. 2, 164–70.

[45] J. Ramsay McCallum, *Abelard's Christian Theology* (Oxford, 1948) (still an indispensable essay on this work) says (p. 58) 'of [Macrobius'] Christian allegiance there is no evidence in his works.' That a modern theologian can get as near as this to overlooking Macrobius' Neoplatonism underlines the difficulties confronting a theologian of the twelfth century.

The Roman Debate

Two influences have been identified at work in Abelard's thought. In Abelard, both were vestigial and worked side by side. Each would subsequently develop on its own, and together they would bring suicide on to the general learned agenda. In the thirteenth century it would be the logical stimulus—the need to investigate problems systematically—which proved the more fruitful, not least because it stayed closer to Christian orthodoxy at the heart of scholastic ethics. In the twelfth century, however, and as a mere pump-primer to thought, it was the stimulus of classical example which proved more powerful. This is imperfectly demonstrated by Abelard's *Christian Theology*. Quite apart from the dubious reputation of book and author, the quality of argument in the suicide chapters of *Christian Theology* was limited by their stylistic affinity to the *Sic et non*: that is, although Abelard did interject thoughts of his own, he did so chiefly by means of long quotations from his familiar authorities. As the moral example of classical suicides migrated from the reading-list of a single curious genius, and became general to the reading public, discussion of suicide nevertheless grew more articulate. Readers now *had* to be protected from Stoic contamination.

I would now like to explain more fully why this happened, when it did. The role of classical suicide in the twelfth-century learned imagination is the first illustration of what I called the 'intertextuality' of medieval reflection on the subject, as a debate between two ages. The two ages were Roman and Christian. This is not the moment to itemize every one of the reasons why the politically minded Europeans in the twelfth century thought they were still living in the Roman Empire. But it *is* the moment to reflect on one, and one of the more immediate. This was, perhaps surprisingly, the Gregorian papal reform. One sure proof of the survival of the Roman Empire was the use of Latin by the educated, and the Gregorian reform, by unifying clerical discipline and freezing out ecclesiastical vernaculars (like Anglo-Saxon) had made the clergy more Roman, not just in a Gregorian but in a historical sense. Put another way, the premium the reform movement placed on good Latin directed minds to the classical Latin writings which were its models, and these, in turn, were Trojan horses, admitting into the very citadels of Christian thought views and exemplars from the Empire that had once persecuted Christianity. When we remember that the twelfth century was also a time of sharper Christian self-definition, raising the level of interest in what was, and was not, true Christianity, and hence in differences with heretics and other deviants, a clash with the classical ethos was not merely possible, but unavoidable. The same cen-

tury that had become peculiarly Christian had become, simultaneously, peculiarly Roman.

In politics, the clash occurred at points of impact long familiar to all students of medieval history, as (for instance) in the rivalry of the papacy and Empire. In ethics, it is scarcely an exaggeration to say that suicide was its point of impact. Was suicide right or wrong? The broader ethical implications of Roman Stoicism—scorning riches, telling the truth, being loyal to friends—might not be strictly Christian, but they passed as Christian enough for twelfth-century moralists. It would not be until halfway through the next century, with Aquinas and the Aristotelians, that the Latin Stoics would lose their moral hegemony. Even then, halfway through the century after that, the fourteenth, with Petrarch and the so-called Renaissance, they would recover some of that hegemony if in a more limited form. The Stoic ideals of wisdom, patience, indifference to wealth, and martial courage—better, now, than the courage of those obstinate Jews the Maccabees—were eminently serviceable so long as no one enquired too deeply into their metaphysical background or asked why Romans, with all that philosophy behind them, had ever gone to the trouble, in and around Constantine's time, of abandoning philosophy for Christianity. And no one did enquire, except at one point. The point was that at which the two ideologies clashed head-on. Here, in respect of suicide, a confined, ethical difference reflected a larger, metaphysical one. It had been at the same point that Augustine, pausing in the very first book of *The City of God,* had turned aside to clash with those pagans against whom this, his greatest book, was directed. In the twelfth century, in analogous circumstances—circumstances in direct descent from those of Augustine's time—it was suicide, again, that set the two cultures at war.

These circumstances render it not only unremarkable, but predictable, that the word *suicidium*, with its in-built pejorative connotation (on the analogy of *homicidium*), should have first been coined in the twelfth century; that is, as a neologism, coined by a member of a Christian religious order—the Augustinian canons, an order noted, incidentally, for its combination of learning with pious Catholic orthodoxy—in the course of a comment on Seneca. The word *had* to be coined then. For its invention was a first, preliminary measure in the defence of Christian belief against pre-Christian, and identification of the point of impact. The literate world had at least to be alerted to the fact that a radical difference was at issue. That the coining of the word by Walter of St Victor was only a preliminary is shown by many later manifestations of the same inter-age disharmony, a disharmony which runs, in fact, from then through to the end of the Middle Ages, through different and often quite diverse channels.

In two of these channels, law and poetry, it was especially the thirteenth and fourteenth centuries that would witness the contest between Stoic and Christian as they met on the soil of the same issue. I shall try to sketch out the contest in law in the chapter after next in this volume, while that in poetry will be left for consideration in Volume 3. The contests belonged to the thirteenth century and later. In the twelfth, the contest had another battleground. Because theology was rooted in the Bible and was the Christians' home ground, it did *not* happen in the heartland of theology, a Christian headquarters where the enemy could scarcely penetrate, so was not (at this stage) audibly challenged. But defences were not so secure on the ethical and political edge of Christian culture. There, the Trojan horse of classical ideals could come and go as it pleased, and did. It was consequently there, on the edge, that the debate on suicide did happen, breaking Abelard's record and engendering the longest Christian apologetic against suicide since St Augustine.

John of Salisbury's *Policraticus*

John of Salisbury's *Policraticus*, whose title can be rendered *The Complete Statesman*, was written around 1159. It was not in any strict sense theology, but offered wide-ranging religious, moral, and political advice on issues likely to confront people in government. John had studied under Abelard, and spent his life in and around the schools that taught other contemporary churchmen, and although he is better described as a diplomat, statesman, and man of letters, John had an appropriate knowledge of the theologians' essential teaching, and used it freely for his purpose.[46]

The generous use of classical literature in John's book is not a total novelty. We saw some of it in Abelard, and the roots of this kind of humanism went back at least a hundred years. The only novelty in *Policraticus* is its extent.[47] Biblical references in the *Policraticus* are matched by references from Roman and Greek history as if in parallel. This first novelty largely explains the second, John's breach of the relative Latin silence on this topic.[48] In one passage, it is the suicide of Saul that provides the occasion, but the debate quickly invokes the other, pagan champions of military suicide; while in the second

[46] *Policraticus*, ed. C. C. J. Webb, 2 vols (Oxford, 1909).

[47] This and the related points made in the following paragraphs are identified by P. von Moos, *Geschichte als Topik, Das rhetorische Exemplum von der Antike zur Neuzeit und die 'Historiae' im Policraticus Johanns von Salisbury*, Ordo. Studien zur Literatur und Gesellschaft des Mittelalters und der frühen Neuzeit. Ed. U. Ernst & Christel Maier. vol. 2 (Hildesheim, 1988), esp. 146, 321, 511.

[48] Bk 2, ch. 27 [vol. 1, pp. 143–61]; and bk 5, ch. 17 [vol. 1, pp. 360.7–364.3]. I have calculated John's disquisitions on suicide as running together to just over 5,000 words, against *c.*1500 in Abelard's *Theologia Christiana*.

passage, conversely, it is a Greek pagan philosopher who starts the debate, and that quickly calls up every resource on the Christian side.

John of Salisbury's two relevant passages will therefore repay a closer look. It will be recalled that Saul had been made king by the prophet Samuel, and later dismissed. John of Salisbury was a contemporary of kings whose relation to the papacy could be compared with that of Saul and Samuel. So he gave plenty of space to a recital of Saul's misdeeds, and of the ruin which followed. Saul's was a dreadful example (John said) since, as a king, he was guilty of two misdeeds: disobedience, and consultation of a witch. It was this latter offence that flung John into a discussion of suicide. For it was the witch, according to the biblical text, who prophesied Saul's ruin and hence indirectly his suicide. By consulting the witch Saul had made his ruin complete. John takes up here the psychological approach we have already seen in the *Glossa*, and draws out the element of fatalism implicit in the consultation of a witch. For the very next day after the consultation, he explains, Saul:

> went down to Hell, raising his hand against himself in desperation, to have a part, in his spiritual obstinacy, with the man who did the same through overweening avarice [= Judas].[49]

Saul might have died more honourably and courageously [*melius . . . fortius*], John insists—that is, by someone else's hand—had it not been for the operation on his feeble and battered mind of the witch's deterministic assurance; for it was the certain knowledge of his coming death that caused him to kill himself.[50]

But there were other reasons. One was that Saul was vainglorious and too concerned with 'the wind of words'.[51] In this (says John) he reminds us of pagan heroes. With a relish reminiscent of St Augustine—whose inspiration here is palpable—John now reacts indignantly against the suicidal bias of all pagan Roman history:

> Let pagans glory in their courage! Let their authors extol their heroes' fame and courage, each author as his own opinion dictates. Let Cato, on their bidding, gulp down his poison! Let Vulteius fortify the arms and minds of his comrades to self-slaughter! Let Cleopatra lay on her bosom the deadly asp! Let Lucretia pass judgement, by the shedding of her own blood, on the lechery of another![52]

[49] Bk 2, ch. 27, §470a [p. 157.16–19].

[50] Bk 2, ch. 27, §470a [p. 157.25–9]: 'Oraculi vero vanitate certioratus gladio suo incubuit, et in extremis agens, dum propriae gloriae consulebat, qui fortius mori potuisset in praelio, auram verborum pertimuit, et infirmi et prostrati animi consilio corporis et animae motem ascivit.'

[51] Ibid., §470a [vol. 1, p. 157.8].

[52] Ibid., §470b [vol. 1, pp. 157.29–158.2]. For Lucretia and Cato (without the poison), above, pp. 139–42; for Vulteius, Lucan, *Pharsalia*, bk 4, lines 540–81; and for Cleopatra VII, Plutarch, *Antony*, §86.

John of Salisbury, for his part, passes judgement on the whole gallery:

For my part I do not think any situation can arise in which it is licit for someone to take his own life on his own authority, no matter what the difficulty, nay, even where chastity is in peril.[53]

It is true, John adds, that this last challenge is 'apparently' made subject to an exception by the incomparable Jerome, 'teacher of teachers'. But Jerome's error only spurs John to state his own view more forcibly, driving it home with another appeal to psychology:

This death is the death of persons utterly desperate. It is the death of those who, though in a bodily sense still alive, are already dead prematurely in their minds. In a word, it is the death of those already dead, not of the living.[54]

John reflects on the fear of death, from which most men suffer, but insists it is only his own wrongdoing that a man should rightly fear; and suicide is a kind of wrongdoing. Cato 'erred' by 'throwing away the gift of life'.[55] For to kill onself 'is known to be forbidden not only by the institutes of the faithful but by the sayings of the sages' (p. 159, 31–3). The sages John here alludes to are Pythagoras, 'prince of ancient philosophy', and Plotinus. But John insists that these two are less the inventors than the publishers of the prohibition of suicide. It had always, they knew, been illicit for a soldier to leave his military duty unbidden, and this life was a military duty, 'an elegant example' (p. 160, 1–6).

This appeal to the Platonic tradition, probably mediated through Macrobius, ends John's earlier and fuller deprecation of suicide, but he returns to it later as if again confronting the massed forces of classical models.[56] His remarks are once more parenthetical, triggered by an item in a passage on another important contemporary subject, this time the subject of money. The worthlessness of money, in comparison with wisdom, finds its epitome in the barrel-dwelling cynic Diogenes. John invokes and praises Diogenes' example, but unwarily, before perceiving that the cynic's wisdom had a flaw because Diogenes was a suicide—one of many well-known stories being that Diogenes cut his own throat after learning he had a fever, boasting it was he who had conquered the fever and not vice versa. So John interrupts himself with a warning, insisting that Diogenes,

was deceived by the view and example of those great men who thought it better when in crisis to go and seek out death, than wait for it to be inflicted. Some men, otherwise

[53] Bk 2, ch. 27, §470a [lines 2–5]. Note that John gives this as his own judgement: 'Ego evenire posse non arbitor . . .' Jerome: above, p. 100.

[54] Ibid. [lines 7–10]: 'haec mors omnino desperatorum est, et eorum qui licet corpore vivant, iam mentis morte praemortui animo vivere desierunt. Utique non vivorum, sed iam mortuorum mors est.'

[55] Ibid., §471a [p. 159.31]: 'vitae munus abiecit'.

[56] Bk 5, ch. 17 [pp. 360.7–364.3].

prudent, had been persuaded by the view I have just condemned that it was better to precipitate one's own death than to suffer disgrace. Cato was of their number, and others, who used a sword, or hemlock or other poison, to escape (as they believed) from a blemish on their posthumous reputation.[57]

John is on the point of excusing these pre-Christians but again draws back at the last moment. Their apology, he admits, appears to be their ignorance. Yet to prefer certain ruin to something merely feared remains foolish and cowardly, for it jettisons the most precious of all our possessions, and on weak grounds. It thus (John argues) exemplifies a false doctrine, and one whose practitioners cannot, for that very reason, be held up as models of courage. The doctrine is vain as well as false. For the poet Martial writes:

> To scorn our lives in hardship is not hard;
> To bear the hardship is, and valiant too.[58]

No one who 'provokes death' is in John's eyes excusable.[59] More excusable, he insists, are those who fear death when it threatens, even though the threat may not materialize—as it did not for Androcles, when everyone thought the lion would eat him. For life is full of surprise turns.[60] Like Augustine long before, John is improvising, thinking as he writes and using a rhetorician's skill to illustrate each point as it comes. Nor does he hesitate to present his views as his own. None of those who killed themselves in the ancient histories, he says, ignorant though they were of Christian teaching, 'is *in my view* [my emphasis] sufficiently excused'.[61]

It is at the end of this second disquisition on suicide, loosely following St Augustine but without mentioning him, that John comes up against the knottiest question of all, one he could certainly have learned about from Abelard if he had not found it for himself: that of the virgin saints who had killed themselves to avoid violation.

> The *History of the Church* [by Eusebius] mentions some people with great praise who provoked death because they wished to throw away their lives rather than their modesty.[62]

John allows these suicides a fourfold excuse. They are excused by:

> infirmity of the flesh, ignorance of the law, fervour of charity and, perhaps, a secret command of God.[63]

[57] Ibid., §584d, p. 360, 20–7.
[58] Ibid., §584a [p. 361.6–7]; cf. Martial, *Epigrams*, 11, 56.15–16.
[59] Ibid., §585b, p. 363.19–24.
[60] Ibid., §585b, pp. 361.21–363.18.
[61] Ibid., §585b [p. 363.19–20]: 'satis excusatus est michi'.
[62] Ibid., lines 20–4.
[63] Ibid., lines 23–5.

'Perhaps'; here was the old Stoic divine command, surviving buoyantly into the age of St Bernard and the crusades. Continuing the argument, John says the suicide saints are therefore:

> saved in their simplicity, but in such a way that the act they presumed on, in their simplicity, should not come to serve as a precedent.[64]

The argument concludes by a return to essential principles and in particular to the paradox of a Christian's relationship to his own life.

> Among the wise, life is held in such contempt that even its extension becomes loathsome if this is the price of turpitude; yet it is held at the same time in such love that, while that life can be lived innocently, it will not be thrown away even in a crisis, be the crisis never so grave. Life, therefore, is to be clung to in such a way that it is scorned, and scorned in such a way that it earns salvation.[65]

Sic ergo servanda est vita ut sit contemptui; sic contempnenda est ut proficiat saluti.

John of Salisbury was brought face to face with the question of suicide by his appeal to ancient example, a stimulus related to that which had provoked St Augustine and which had already turned Abelard's thoughts in this direction. John too had to improvise, and although he loosely followed Augustine's guidance he added sources and ideas of his own. Among sources we should note especially, as in Abelard, the presence of Macrobius. As for ideas, John's insistence on the true nature of courage was as old as Aristotle, while his excusing of the suicide virgins, by reference to a possible secret divine command, was part of his inheritance from Stoicism via Augustine. Together with the force and obvious originality of his polemic, however, two inventions of John's own deserve notice. One is his psychological observation that suicide is the death of those already dead, *iam mortuorum mors*; the other, his anti-fatalistic intuitions. For it was Saul's listening to a witch's prophecy, according to John, that determined the king's fate. In dissuading the Christian from suicide John accordingly develops a long, amply illustrated excursus on the theme 'you never know.'[66]

In large polities like churches, the tightening of unity in one dimension often opens up fissures in another. That had happened with the post-Gregorian Church, whose cultivation of universal Latin revived the spirit of ancient Rome. Stoic and Christian ethics confronted each other, and at one point, alone, recognized their fundamental disharmony. The effect was to lift suicide,

[64] Bk 5, ch. 17, lines 23–6. [65] Ibid., pp. 363.30–364.3.

[66] The idea that a 'psychic death' precedes suicide, as in John's *mors iam mortuorum*, has been elaborated in modern psychiatry by D. W. Winnicott in his posthumously collected essays, *Psychoanalytic Explorations*, ed. C. Winnicott, R. Shepherd, and M. Davis (London, 1989), esp. p. 93. (I thank Dr K. E. Robinson for this reference.)

the neglected Cinderella of dark-age biblical commentary, to the centre of learned attention. *Policraticus* has illustrated that effect, more publicly and cordially than did Abelard's *Christian Theology*, and at greater length. Within sixty years, however, a separate set of conditions, born of the other, theological side of Abelard's inheritance, would confirm the place of suicide on the scholastic agenda. I shall come to those conditions in a moment. Meanwhile it will underline the lesson of *Policraticus* to learn, before then, that the intellectual matrix which gave birth to John of Salisbury's anti-suicide arguments was strong enough, and certain enough in its effect, to produce their analogue three generations later, long after mainstream theology had found its own individual way to suicide from the other side. The analogue comes in a body of writings of a more overtly theological purpose than John's, destined for an even wider readership, by the Franciscan John of Wales.

John of Wales

This John of Wales (I shall regularly add this surname to avoid confusion with John of Salisbury) was a Franciscan friar who lived mostly in the universities of Oxford and Paris between *c.*1258 and his death in 1285.[67] The installation of Franciscan friars at university, together with their studious and frugal habits, had had the unexpected result of making them classical scholars, friar-scholars who would in due course educate Chaucer's audience by using classical knowledge in their sermons.[68] John of Wales's most influential writings were two compendia, the *Breviloquium* ('A Brief Discourse of the Virtues of the Ancient Princes and Philosophers'), written *c.*1264–5, and the *Communiloquium* ('A General Discourse' on the same subject),[69] written between *c.*1265 and 1270. Both works set out to marshal their material to help preachers drive Christian principles into their public, from the pulpit and in casual conversation, and both were prodigiously successful, leap-frogging each other in public esteem throughout the late Middle Ages.[70]

[67] For the following: J. Swanson, *John of Wales: A Study of the Works and Ideas of a Thirteenth-Century Friar*. Studies in Medieval Life and Thought, 10 (Cambridge, 1989). Life: pp. 4–5.

[68] B. Smalley, *English Friars and Antiquity* (Oxford, 1960), 307: 'When Chaucer mocked the friars he was biting the hand that fed him. They educated his audience.'

[69] *Summa Johannis Valensis de regimine vite humane seu Margarita doctorum ad omne propositum* (Lyon, 1511). *Breviloquium* is on fols. 195^{r}–217^{r}; *Communiloquium*, on fols. 4^{r}–139^{v}. I have amended doubtful readings with the help of a transcript of an edition of 1475 made (and generously put at my disposal) by Dr Swanson, and from the edition edited by Luke Wadding, *Florilegium* [etc.] (Rome, 1655). On the two works and their dates: Swanson, *John of Wales*, 41–55, 63.

[70] Each survives in some 150 manuscripts and numerous early printed editions: Swanson, *John of Wales*, 213.

For John of Wales, almost everything classical was morally better than anything contemporary. Suicide therefore comes, when it comes, as a shock even sharper than its equivalent in *Policraticus*, making the author pull sharply on the reins of his Roman enthusiasm.[71] Thus in *Communiloquium* he is more than halfway through a rapturous parade of classical women who killed themselves for the sake of chastity before he remembers his own faith, and suddenly, at that point, jams all his moralizing into reverse. No, the suicide of these women is *not* to be admired. Since the friar's examples, mostly from Valerius Maximus' *Memorabilia*, also include one of the suicide saints (St Ambrose's St Pelagia), John of Wales, in his turn, has to deploy the divine-command doctrine from St Augustine. These holy women, like Samson, committed suicide by privilege:

> In these pagan women we should therefore commend their pious zeal while on no account imitating their suicidal excesses, whatever the high regard their modesty was accorded by the pagans.[72]

And he continues with his stories of ancient modesty.

Reminded by this encounter of the need to strengthen the case against suicide, John of Wales returned, later in *Communiloquium*, to confront the subject directly. Suicide has now become 'the error of the pagans'.[73] Here the author gathers in Augustine's stories and apologetic from *The City of God* concerning Cato, Cleombrotus, and Lucretia. He thickens these allusions ambivalently from Seneca, and drives home the orthodoxy of his point with principles of Pythagorean Platonic origin:

> We are God's possessions, and his servants, and should obey his commands like servants. Like prisoners, we should remain in our bonds. Like faithful followers, we should guard the treasure entrusted to us, and not reject the divine gift of life. For if it is insulting to reject human gifts, how much more should we conserve those gifts bestowed on us by our God![74]

[71] Swanson, *John of Wales*, 55: 'John seems dedicated to the attempt to persuade his readers that ancients were peculiarly virtuous as a class.' In a letter to me of 17 Feb. 1983 (which she has kindly allowed me to quote) Dr Swanson writes 'I think this [suicide] is the only topic on which John condemns the ancients to any significant degree.'

[72] *Communiloquium*, pars 3, distinctio 1, ch. 3d [fol. 76^{r}]: 'In mulieribus vero gentilibus zelus pietatis commendandus; excessus tamen in facto quo se necaverunt minime imitandus quantevero reverentie fuerit pudicitia apud paganos.'

[73] *Communiloquium*, pars 7, distinctio 1, ch. 6 [fol. 134^{r-v}]: '*De errore illorum* [scil, *gentilium*] *qui mortem sibi intulerunt*' [= the title of the section].

[74] *Communiloquium*, pars 7, distinctio 1, ch. 6h [fol. 134^{v}]: 'Et sequitur Dei possessio sumus, deo servitium debemus, quasi servi expectemus imperia, quasi vincti reservemus vincula, quasi fideles vanum depositum custodiamus. Non recusemus vite huius munus, non refugiamus donum celeste. Si hominis dona [1511 edn: homines dicta] reiicias, contumeliosus es, quanto magis servare debemus quod a deo accepimus. Exemplum de Abraham [Gen. 22: 1] Job [Job 2: 9] et David [Ps. 141, line 8] qui ait, "Educ de custodia animam meam".'

John of Wales now appeals to the famous legend of St James's suicide pilgrim, resuscitated from his suicide but reproved for it. The legend proves its point and John concludes:

> May the faithful therefore eschew the aforesaid error, by which a person might knowingly and voluntarily put himself to death.[75]

One last element in the condemnation of suicide in the *Communiloquium* is worth noting. The author quotes the Jewish historian Flavius Josephus to the intent that the desire to hold body and soul together is a law of nature.[76] That suicide was against nature, *contra naturam*, was an idea Latin writers had already begun to express since long before 1200.[77] Peter Chanter, doyen of Paris scholars, had been one to do so, and nearer to John of Wales's time, Robert Grosseteste would be another.[78] John of Wales's reference is another sign of the times, in which nature increasingly joined battle against suicide.[79] To see how it came to do so, we have now to turn to what I called the second of the two stimuli in question. It was a stimulus which, slowly but surely, finally took suicide out of theology's dark corners and into its sunlit centre.

The Silence of Late Twelfth-Century Theology

We have followed one side of the story begun by Abelard far into the thirteenth century. To find the other we have to turn back again in time and look at a development in the core of theology itself. The aspiring twelfth-century clerks who learned their Latin from Seneca, with his embarrassing partiality for suicide, had mostly been studying grammar, or perhaps rhetoric. But it

[75] Ibid., ch. 6l [fol. 134^{v}]: 'Absit ergo a fidelibus predictus error, ut scienter et ex industria ingerat sibi mortem.' The legend: *The Violent against Themselves*, 278–86.

[76] Ibid., ch. 6g [fol. 134^{v}]: 'Et de hoc Josephus concinnans ad judeos bene, prout ait Hegippus, lib. iii, Volebant enim Judei aliqui inclusi a Romanis se necare. Ad quos Joseppus: Nature vinculo anima coniuncta est corpori.'

[77] Cf. Macrobius, *In somnium Scipionis*, §19, taken up by Peter Abelard, *Sic et non*, ch. 156 [ed. McKeon; = 155; ed. *Pat. lat.* 178, 1606A]: '[mors] nec veniens per naturam timenda est, nec contra ordinem cogenda naturae.'

[78] Petrus Cantor, *Summa de sacramentis*, pt 2 ('De excommunicatione'), (see n. 18), 352.50–1: 'hoc non est ita adiunctum humanae naturae ut quis iniciat sibi manum.' Robert Grosseteste, *De decem mandatis*, (see n. 18) (Oxford, 1987); *De quinto mandato*, §6 [p. 61.27]: [all homicide] 'contra naturam universalem videtur facere.'

[79] John of Wales quotes Aristotle in this connection only once, in *Communiloquium*, pars 7, distinctio 1, ch. 6j [fol. 134^{v}]: 'ait philosophus ix Ethicorum. Dicit quod propter maliciam aliqui *fugiunt vivere et interimunt se. Querunt enim mali cum quibus commoventur / se ipsos autem fugiunt, recordantur enim multorum et difficilium.* Et sequitur *Nihil amabile habentes patiuntur in seipsis: nec gaudent* et tamen est quod se interimunt. Vel hoc facit homo ex hostis suggestione et seductione; ait Hugo libro secundo de sacramentis parte xv; capitulo ij, ubi dicit de quodam peregrino eunte ad sanctum Jacobum . . .' The quotation (italicized here) is from Aristotle, *Ethics*, bk 9, ch. 4. Cf. p. 125 above.

was another liberal art, logic, that gave birth to theology—logic, nurse and guide of reason, man's peculiarly human attribute. Although Christianity was ultimately based on faith, not reason, it could not have been an incarnational religion, nor the Gospel the book it was, unless its teaching had positively rejoiced at human rationality and housed this rationality within its view of the world. The new divine science (*divina scientia* being a home-grown Latin synonym for the Greek *theologia*) was no more than a joint evaluation by both reason *and* faith, in collaboration, of all matters arising from religion. These matters included, it goes without saying, the mutual relationship of the two functions, reason and faith, a relative subject to much scholastic epistemology, and largely (incidentally) what the polemic centred on Abelard had all been about. It is not our subject now, except as ground for one remark: that the new discipline of theology, seeking as it did systematically to apply judicious reasoning to all topics that could arise from the holding of faith, must eventually, with the relentless necessity of the logic from which it fed, come even to the extreme, far point of the ethical peninsula, suicide.

The task of this chapter, however (which is meant to be about reticence), has been to show that it did *not* do so during the twelfth century. Setting on one side the direct Christian–Roman debate provoked by the suicides of otherwise admirable classical heroes—a debate which, where engaged in at all, was engaged idiosyncratically, at or beyond the edge of theology proper—suicide remained a subject on which moral theology was silent. To talk of silence (or even reticence) is always to make a dangerous negative assertion, of a kind prudent scholars avoid: we must not forget those hundred thousand pages, and the reading-power of one author alone is unlikely, even if buttressed by that of three or four others with similar findings, to prove something is not there. There is nevertheless a way of approaching the purlieus of certainty, if not reaching certainty itself, and that is to search in places where discussion of a subject might be expected and where its absence is correspondingly significant. Of such places the most revealing, for twelfth-century theology, must be its most enduring literary product, Peter Lombard's *Sentences*.

Peter Lombard

Compiled *c.*1155—a few years before *Policraticus*—the *Sentences* and their author, Peter Lombard, symbolize, more completely even than any book by Peter Abelard, the transition from commentary to systematic theology. *Sententia* meant Opinion, and had by then become the self-effacing designation for judgements by Masters—the capital 'M' denotes what was then a technical term—judgements made in concluding 'questions arising' from older Authorities (also with a capital, for the same reason). *Sic et non* had shown

these Authorities bristled with questions. *Sententiae* were the Masters' attempts to settle them. The novelty of Peter Lombard's collection, made after he had already made his contributions to the more conservative genre of *Questiones*, was that it abstracted the Opinions, together with the Questions that had given rise to them, and arranged the Opinions on their own, by subject-matter. The appeal of this genre to students of divinity can be gauged by the book's literary success. Between its compilation and *c.*1600 this exceeded that of any other scholastic production. The Sorbonne alone would possess fifty manuscripts by the middle of the fourteenth century, and it is not too much to say that Commentaries on the *Sentences*, which by the end of the Middle Ages ran into several hundreds (different commentaries, not just manuscripts), constitute the richest single treasury of philosophical thought in those years.[80]

If suicide had been a subject twelfth-century theologians expected to cover, it would surely be present in Peter Lombard's *Sententiae*. But it was not. Later, when commentaries began in earnest, occasions would be found to fit it in. But the Lombard's *Sentences* themselves, provider of the occasions, did not take them. He has things to say on homicide, for instance, and even gets as far as to say that Adam, by sinning, 'killed himself'.[81] But that allegorical reference to suicide only highlights the absence of any literal equivalent. Again, independently of that, in another place, Peter Lombard runs through the Ten Commandments, the fifth of which ('thou shalt not kill') had been, and would be, a favoured building site for an argument on suicide. Peter Lombard is content—it was a matter nearer his foreground—to say that the literal reading of 'thou shalt not kill' must be matched by a spiritual, to the effect that we must not *think* of killing.[82] Again, he discusses whether a Christian's duty of charity includes himself; a context which would in time, with encouragement from Aristotle, encompass the question whether one may kill oneself. But in Peter Lombard, it does not do so.[83] Nor, even, does his meditation on Philippians 1: 23, where St Paul expresses his longing to leave 'this body' and be with Christ, another text which would draw reflections on suicide in later generations.[84] The one brief allusion to suicide in the *Sentences* is to Judas, who 'rushed to the noose',[85] and it comes, unsurprisingly, in a passage on the sin of

[80] Success: J. de Ghellinck, *Le mouvement théologique du xii^e siècle*, 2nd edn (Bruges, 1948), 211–29. Edition: Petrus Lombardus, *Sententiae in iv libris distinctae*, 2 vols. Spicilegium Bonaventurianum, 4 and 5 (Grottaferrata, 1971, 1981).

[81] Bk 2, dist. 33, ch. 2 [vol. 1, pp. 518–19]: Adam's sin included homicide 'quia se in mortem precipitavit'.

[82] Bk 3, dist. 37, ch. 4 §3 [vol. 2, p. 210].

[83] Bk 31, dist. 28, chs 1–4 [vol. 2, pp. 168–71] (covering the Lombard's discussion of self-love generally).

[84] Bk 2, dist. 15, chs 1–2 [vol. 1, pp. 98–9]. Cf. pp. 236–7 below.

[85] Bk 2, dist. 43 [vol. 1, p. 575.10–11]: 'facilius desperans cucurrit ad laqueum'.

Despair, a passage which nevertheless attaches the sin more properly to Cain. The cursory character of that reference, and the missed opportunity to say more of the manner of Judas' death, only add emphasis to the silence that surrounds it.[86]

Peter Chanter and others

The reticence of Peter Lombard goes a long way way to account for that of other contemporary theologians. Between his time and the end of the century, the age of Peter Chanter, Stephen Langton, and their circle, Paris divines would become increasingly coherent and influential in moral theology. Among their wide-ranging social and moral concerns, suicide remains a striking absentee.[87] In confessional handbooks, whose composition began just before 1200, suicide is mentioned but only with the old, pre-scholastic texts. Equally significant, and entirely in harmony with this negative conclusion, is a feature of the poetic moral allegory of Peter Chanter's time and just afterwards. Among allegorical *personae* in this poetry we might expect to find suicidal emotions, notably despair; but there again we would be disappointed.[88]

If twelfth-century learned reticence does admit exceptions, they are of the kind that underline the rule since they reflect, not learning in itself, but expe-

[86] In reaching the above, rather surprising, negative findings I have made use of the subject, author, and scriptural indexes of the Grottaferrata edition of Peter Lombard's work. The scriptural index was checked for passages used by other commentators, at various periods, to discuss suicide, notably 'Thou shalt not kill' in Exod. 20: 13 and Deut. 5: 17; 'I long to be dissolved and be with Christ' in Philippians 1: 23, and the eight accounts of suicide listed in Chapter 3 above. The author index was meanwhile checked for the familiar relevant passages from Augustine, Plato, Plotinus, Porphyry, and Macrobius. Peter Lombard's apparent indifference to suicidal implications in these biblical texts is put in sharp relief by St Bonaventura's expansiveness on suicide when commenting on these very utterances in the *Sentences*, in relation to the same biblical passages, three generations later; see R. Jehl, *Melancholie und Acedia. Ein Beitrag zu Anthropologie und Ethik Bonaventuras* (Paderborn, 1984), esp. 235–7 and 252. As for the authoritative secondary literature on the Lombard, as may be significant that the index of M. L. Colish, *Peter Lombard* (Leiden, 1994) has no entry for 'suicide' (p. 890) nor any substitute under 'homicide' (pp. 875–6) or 'despair' (p. 866).

[87] J. W. Baldwin, *Masters, Princes and Merchants: The Social Views of Peter the Chanter and his Circle*. 2 vols. (Princeton, NJ, 1970), a survey of Paris moral theologians at the end of the century, and J. Longère, *Oeuvres oratoires de maîtres parisiens au xii^e siècle*, 2 vols. Études augustiniennes (Paris, 1975) are among modern studies which have no entry 'Suicide' in the index. Searches I have conducted in available printed editions of these theologians, as of Longère's book just named, have used as guide the group of 'key' texts indicated in the last footnote. Peter Chanter's own 'De excommunicatione' (as in n. 78 above) discusses suicide in the context of the non-burial of those who die in tournaments, or are otherwise excommunicate, ch. 147 [p. 352], but while Dugauquier's index to his edition of this work purports to give a reference to suicide on p. 466, this turns out to be a mistaken reference to the passage just indicated, on p. 352.

[88] I hope to document this in the following Volume, *The Mapping of Mental Desolation* (in a chapter on 'The Allegory of Despair', which will trace the arrival of this anti-hero in the genre some generations after Peter Chanter).

rience, and come from the ascetic vanguard of monasticism. In my third volume, *The Mapping of Mental Desolation*, I hope to document temptations to suicide felt in monastic circles and more will be said there of two well-known twelfth-century ascetics who referred expressly to suicide in a moral context. St Bernard of Clairvaux (†1153) alluded briefly to suicide in connection with the dangers of self-hate, in a sermon to students in Paris,[89] and once or twice warned monastic novices against despair in words which draw their authority from the preacher's experience and intuitions.[90] Almost the same can be said of a second example, a longer polemic against suicide in the *Book of Visions* of Bernard's younger contemporary, St Hildegard of Bingen (†1179).[91] The studious and thoughtful Hildegard, for her part, does provide an exception to the silence of her century. For her excursus on the sin of suicide runs to 650 words, and while it employs no other theological or philosophical authority than the biblical 'Thou shalt not kill,' it builds a case eloquently on that, and on the related need man has to keep soul and body together if he is to fulfil the purpose of his life, namely repentance.[92] As if quoting words divinely uttered to her in her vision, Hildegard writes:

> The man whose heart has no faith or hope in me, the true God, will not rise again to life; and it is the same with the man who casts himself down to bodily death. For by doing so he anticipates the separation between body and soul which I have decreed for mankind, performing the separation himself without any hope of mercy. Wherefore he falls to perdition, since he kills that by means of which he should do penance. For he who takes away from man that which I have put in him commits a terrible crime.[93]

That the saintly abbess expressed these and other thoughts by way of reported visions, as distinct from treatises, almost certainly reflects an awareness that both her sex and a certain idiosyncrasy in her speculations might

[89] *De conversione ad Clericos*, §4; ed. J. Leclercq, *S. Bernardi opera*, vol. 4 (Rome, 1966), 76.8–13: 'Ceterum hoc odium tam carnis quam animae, non in affectu, sed in effectu potius invenitur. Sic nimirum odit et freneticus carnem suam, cum sibi ipsi manus inferre laborat, rationis deliberatione sopita. An vero gravior ulla phrenesis iudicatur quam impaenitentia cordis et peccandi obstinata voluntas? Siquidem manus nefarias inicit sibi ipsi, nec carnem, sed mentem lacerat et corrodit.'

[90] Konrad of Eberbach, *Exordium magnum Cisterciense*, Distinctio 2, ch. 5; ed. B. Griesser, Series Scriptorum ordinis Cisterciensis, vol. 2 (Rome, 1961), 101.20–34.

[91] *Scivias*, pt 2, chs 58–60; ed. A. Führkötter and A. Carlevaris, *Corpus Christianorum, Continuatio Mediaevalis*, 43 (Turnhout, 1978), 222–4.

[92] Ibid., esp. lines 1690–1 [p. 222] and 1735–9 [pp. 223–4].

[93] *Scivias*, pt 2, ch. 59 [p. 222.1685–92]: 'Sed et sicut ille qui me verum Deum nullo modo in ulla fide aut spe in corde suo vult scire, ad vitam non resurgit, ut praedictum est, ita nec ille qui se ipsum in mortem corporis sui praecipitaverit, quia separationem illam quam hominibus constitui non exspectat, sed se ipsum sine ulla spe misericordae discindit, unde et in perditionem cadit, quoniam hoc occidit cum quo paenitere debuit. Nam qui illud ab homine separat quod in homine posui, magno reatui se substernit.'

otherwise deter learned orthodoxy. She knew (in other words) that she was an exception.

Our history of medieval suicide doctrines was begun with a view to understanding their origin. The largely negative result obtained in this chapter has contributed to this purpose by showing that, whatever the rationale for the curse on self-murder, not much of it is to be found among early theologians, who hardly considered the question at all. That, in turn, means that the search for a rationale must also go elsewhere. This will happen in Chapters 9 to 11, where we shall look at what I call 'occasional' theology, and in Chapters 12 to 14, at the less articulate forms of moral expression commonly studied by anthropologists. This is not to say theologians had no part in it. This chapter has shown that a few had some part and the next will show more, having more of a part. What it does show is that we are not in the presence of a *mere* matter of theological doctrine, dictating to everyone else, but more in that of a collective intuition which expressed itself in many ways, some not learned at all.

The reticence of the first age is thus significant because it puts academic opinion in its place, that is, in a cultural and social matrix with other agencies in it. That lesson understood, we can turn back the wiser to consider the second stage in the history of theology and, in it, those principles native to it, which, within that matrix, urged theologians to be more articulate on the forbidden subject. The central principle was one already met in this chapter, namely that theology was systematic. We saw it as already so in principle in Abelard's work. It became more so, in successively new ways, in the works of Peter Lombard and Peter Chanter, and the progress continued after these, in a manner which can be characterized by a homely comparison. Theology made a change between two methods of grass-cutting, from the use of a sickle to the use of a mechanical mower. The sickle cuts discreetly, reflecting the operator's private judgement. The mechanical mowing machine cuts relentlessly, covering, in the end, every inch of the crop. In scholastic moral theology, an analogous change meant that the elusive question of suicide must finally be brought into the open, and subjected to direct debate like the others. How that happened, and at the cost of what far-reaching metaphysical complications, is a topic on its own.

7

Theology: Suicide Discovered

As a means of systematic access to religious and moral questions, theology came of age during the thirteenth century. It did so through the development, to full maturity, of a literary and institutional structure for the defining and answering of questions. Big questions were subdivided into smaller, these subdivided again and again, until, at the level of reader or listener, each question or article (as it was called at ground level) was set out with its twin retinue of authorities, for and against. This was the recipe prefigured in Abelard's *Sic et non*, except that questions and authorities were now much augmented and the conflicts resolved by *solutiones*. The *solutiones*, and the way they are reached, express the individual genius of the Master responsible. We can test what was happening by the nature of the reaction to it. The same decades saw the birth of an academic 'evangelical' movement by which a devout minority, in and out of the new mendicant orders, insisted that the freshest morning hours be spent reading the Bible rather than in putting questions about it.[1] The reaction is witness to the novelty of which it expressed apprehension. The new mechanisms of devout learning were changing the latter's centre of gravity, away from the divine page simply as it stood. That was a price that had to be paid. What was bought with it was a means of ingesting the entire range of knowledge, from whatever source and on whatever subject, to a world-view that remained ultimately based on the revealed truths of religion. For moral questions, however recherché or unfashionable, the system that now came to maturity was no longer, to use the grass-cutting analogy ventured at the end of the last chapter, a mere mechanical mower. It was more like a combine harvester, which even mice cannot escape. Nor could suicide.

The first signs of the scholastic combine harvester are associated with two names in particular. Both were scholars working in Paris in the 1220s: William of Auxerre and Alexander of Hales. How slowly the forbidden subject entered scholastic debate can be seen by a comparison of William's and

[1] P. Raedts, *Richard Rufus of Cornwall* (Oxford, 1987), 122–51; R. W. Southern, *Robert Grosseteste* (Oxford, 1986), 172–5.

Alexander's writings. Alexander was the first Paris Master to base his lectures on Peter Lombard's *Sentences* rather than the Bible, and we possess students' notes of his lectures—for student note-taking, too, was becoming progressively more systematic. A search of the suicide-sensitive areas of Peter Lombard's text, as possible lodging for comment by Alexander, yields the same return as before: silence. Alexander's elaborations of the points raised by the Lombard include none in this direction.[2] The same was true of Alexander's colleague, William of Auxerre. William's huge *Summa aurea*, finished between *c.*1222 and 1225, was not yet, quite, a commentary on the *Sentences*, but it was arranged in four books on their model, and covered some of the same ground. The title *Summa aurea*, literally *The Golden Compendium*, could more loosely be translated 'The Complete Theologian'.[3] Like the *Sentences*, William's *Summa aurea* mentions suicide just enough to draw attention to his failure to mention it more. Thus when speaking of 'The Vow of Jephtha' (who swore that he would repay victory in a certain battle with sacrifice of the first living thing that he saw afterwards, and this proved to be his only daughter), William asks why Augustine should have availed himself of the 'special divine command' argument to excuse Samson's suicide, but not Jephtha's killing of his daughter, although Samson killed himself 'which is a bigger sin than to kill one's daughter'. For an answer William is content to convert Samson into the 'type' of Christ who, like Samson, 'exposed himself to death and dispossessed the devils'.[4] This approach has a commentators' tradition behind it, and its own appeal, but its allegorization of Samson's suicide deflects both author and readers from moralizing on his last act. Here was another occasion missed. It was far from the only one. The Lombard's influence on William of Auxerre extended even to their common silence on the unmentionable.

But by the 1220s new influences were already at work, and two in particular. One was a multiplication of books, in that the careers of William and Alexander coincided with the crest of a wave of translations from Greek and Arabic. Second, connected with that as both cause and effect, was the creation

[2] Alexander of Hales, *Glossa in iv libros sententiarum Petri Lombardi*. 4 vols. Bibliotheca franciscana medii aevi, 12–15 (Quaracchi, 1951–7). I have looked in the same places and applied the same tests as in respect of the *Sentences* (above, p. 216). For Alexander and his context, ibid., vol. 4, Prologomena, pp. xiii–ccclxx.

[3] William of Auxerre, *Summa aurea*, ed. J. Ribaillier. 4 vols. Spicilegium Bonaventurianum, 16–17, 18a, 18b (Paris and Grottaferrata, 1980, 1982, 1986).

[4] Ibid., bk 3, tract 50, ch. 5 [vol. 3, 992.125–8]: 'Queritur ultimo, cum maius sit peccatum interficere se ipsum quam filiam suam, quare Sampson, qui interfecit se ipsum, excusatus est a sanctis, et Iepte non, dicit enim Augustinus. . . .' [*De civ. Dei*, bk 1, ch. 21; *Corp. Christ., Series. lat.*, 14, p. 23.12–18] [.132–3]: '. . . significat factum Christi, quo se mori exposuit et demones spoliavit; et propter hoc Samson excusatur et Jepte non.' Cf. Hebrews 11: 32, where both Jephtha and Samson are numbered among the saints. The index to Ribaillier's edition again allowed a search by way of the familiar biblical and patristic passages.

from *c.*1220 onwards of a new academic genre, more systematic even than the *Sentences*, namely the *Summa*, of which William's production was a prototype. The *Summa* was an ordered, encyclopaedic rehearsal of the entire range of theology, drawing on work that could occupy more than one scholar and last more than one lifetime. For that reason alone (and there were others) the *Summa* had to be systematic, and this meant that for suicide, as a topic of moral theology, the time of escape was over. It had no choice but to enter the debate. It did so in a long discourse on suicide in a work attributed ever since to Alexander of Hales.[5] To see how this work tackles the suicide question is to glimpse one more factor which may, throughout those earlier silent decades, have helped keep the subject undiscussed.

Alexander of Hales and the Lure of Neoplatonism

The work is the *Summa theologica fratris Alexandri*, a work which set a new standard and scale for theological production. The *Summa Alexandri* was a cooperative creation, and can therefore be attributed only in part to the 'Brother Alexander' [of Hales] of its title. But he began it, soon after 1235, and from the start—probably when he joined the Franciscan order in the following year—it was almost certainly Alexander who engaged the fellow workers who later finished it after his death in 1245 or 1246. I have given reasons why a proper discussion of suicide might now be expected, and the *Summa Alexandri* does not disappoint. It contains what amounts to a treatise on the moral wrongness of suicide, a treatise two-thirds as long again as that in John of Salisbury's *Policraticus*. This time the context is not classical suicide, but one which echoes Peter Lombard at a distance, namely an exposition of the Ten Commandments. Under the fifth, 'Thou shalt not kill,' Alexander or his accomplice devotes a complete chapter to the question whether this means a man cannot kill himself.[6]

Alexander's argument has other peculiarities besides its length, and these can be summarized. Its approach is formal, following the pattern of the scholastics' formal *quaestio*. Arguments for saying no, that is, are followed by those for saying yes, these by a Solution, and the Solution, finally, by replies to the former arguments which have proved mistaken. The array of sources is worthy of its structure. The suicide chapters from *The City of God* are naturally prominent, in respect, for instance, of the killing of an innocent, of rape, of the ramifications of 'thou shalt not kill,' of Samson's divine command to

[5] *Summa theologica fratris Alexandri*, 5 vols (Quaracchi, 1924–79).

[6] Ibid., pars. 2, inquisitio 3, tractatus 2, sectio 1, quaestio 2, titulus 5, §353, ch. 2 [vol. 3, pp. 522–4].

kill himself, and of Razias. Razias' suicide, the Franciscan author adds on his own account, helped demonstrate his zeal for the law, and that was good; but the suicide *per se* was bad. Augustine and the Bible are nevertheless joined now by quotations from *Glossa ordinaria*, canon law, and the liturgy. Classical references of the kind that gave *Policraticus* its colour would have been inappropriate, since a conscious demarcation-line split the Paris theologians from the secular-minded Arts Faculty, where such classical authors were mainly read. The same demarcation-line helps explain the absence of Aristotle, with fragments of whose *Ethics* Alexander was acquainted, but who had been a bone of contention between the faculties of Arts and Theology. A theologian, especially a Franciscan like Alexander of Hales or his colleagues, was in the 1230s still well-advised to treat Aristotle with caution. These absences, of classical histories and of Aristotle, make one classical presence the more overwhelming. Among possible arguments *against* suicide, the foreground left vacant by Aristotle is held, remarkably, by Plato.

For the majority of the Franciscan's arguments are in some sense Platonistic. From Plato himself we learn that men are servants of a master whose providence governs us, and prisoners who have no right to escape unless divinely released.[7] The author might, by *c.*1245, have read these positions directly in Henry Aristippus' translation of *Phaedo*, certainly available in Paris by then, but we have met them already in John of Salisbury, and such *mots* could, and did, circulate without the books they were born in—indeed without books at all.[8] The rest of the Platonistic case did not come from Plato himself but from a Platon*ist*. Its elements are four, and constitute no fewer than half Alexander's list for the case *contra* suicide. They are these:

When the soul is violently separated from the body their bond is broken but not untied, since the rupture involves a measure of passion, holding the soul to the material world.

Men are put on earth to grow towards perfection. While life lasts there is a chance for greater perfection.

Sinners cannot raise themselves to life when they are dead and should therefore do so now, before dying.

Whoever commits suicide in the hope of beatitude is caught in the toils of passion, because hope, like fear, is a passion.[9]

[7] *Summa theologica fratris Alexandri*: '*Contra* (d): ad idem sunt rationes philosophorum, quarum prima est Platonis, dicentis: Constat nos esse sub dominio Dei, cuius tutela et providentia gubernamur; nihil autem est invito domino de iis quae possidet, ex eo loco, in quo suam rem constituit, auferendum. Ex quo arguit: Sicut ergo qui vitam alieno manicipio extorquet crimine non carebit, ita ille qui finem, id est mortem, sibi, Domino necdum iubente, quaesierit, non absolutionem consequitur sed reatum.' Cf. pp. 124–5 above.

[8] Above, p. 128.

[9] Loc. cit: *Contra* (e–h) [p. 523]. Cf. pp. 149–50 above.

Alexander attributed these principles to Plotinus. But we have met them in Chapter 4, in Macrobius, who *attributes* them to Plotinus though we know he had read them really in Porphyry. What matters is not the confusion of names, nor even that all three were non-Christians (two of them *anti*-Christians), but rather that there are heterodox resonances in the doctrines themselves.

The resonances in question are the ideas that it is passions that hold us to the material world; that we must grow towards perfection; that sinners must raise themselves to life; and that hope, even of beatitude, is not a cardinal virtue but a 'passion' of the kind men must try to conquer. The difference between these doctrines and Christianity, together with the ease with which they have been confused, was mentioned earlier in respect of Macrobius. The mature Augustine could not have said these things, no doubt because he had once been a Manichean and had later deliberately rejected the dualism taught by that sect (which held the world and the flesh to be intrinsically bad, and that men are caught in the material world by their passions and must seek to free themselves from it). Neoplatonism gave its dualism better philosophical backing, so it was easier to mistake it for Christianity. Christians only needed reminding, to avoid the mistake, that God had *made* the material world, had come to live in it, and himself had had passions, like being tired or hungry; and that by employing these sinlessly, as men since Adam had failed to do, God had saved men who had no means of saving themselves. That was Catholic orthodoxy. It was not the doctrine implicit in this item of the *Summa Alexandri*.

Other Neoplatonistic views were smuggling themselves into Paris as the *Summa Alexandri* was being written, mainly in the company of Avicenna's commentaries on Aristotle's scientific writings.[10] The heterodox views would gradually be identified and condemned, in the course of a debate which was destined to grow hot in the lifetime of Alexander's most famous pupil, St Bonaventura (†1274). Alexander's own sensitivities might have been sharper if he had written two decades later, when theologians' critical faculties had been appropriately alerted. But at the time Alexander wrote, and for his relatively untried purpose, Macrobius was apparently too attractive to resist. There was nothing else. The *Summa*'s threshing-machine had insisted the question be threshed, and the inherited repertoire of anti-suicide arguments looked thin. How better to clinch the case *contra* than by throwing caution to the winds and using the coherent Macrobius? Alexander and his school were not, as we saw in the last chapter, quite the first to turn this way. A century earlier, Abelard had found Macrobius' text, used it as a baffle to Jerome

[10] F. Van Steenberghen, *La philosophie au xiii^e siècle* (Louvain and Paris, 1966), 'Table idéologique' under 'Avicennisme', p. 591. For the conflicts, *passim* and especially 72–117, 357–412.

and Eusebius in *Sic et non* and later, to buttress orthodoxy, in *Christian Theology*.[11]

Despite the traces of Macrobius' work that had appeared elsewhere in theological discussion of suicide, the Franciscan authors of the *Summa Alexandri* were nevertheless unusual in the authority they gave it. An explanation can be suggested, as lying in the combination of two factors. One was the theologians' reticence. Abelard had first dug the subject out for an epistemological purpose rather than a moral one, so he lacked the moralist's inhibitions and did not, at that stage, much mind whom he quoted. Later, in *Christian Theology*, he put Macrobius beside Augustine to condemn suicide, but the reputation of that book of Abelard's was too suspect to smuggle Macrobius into the ranks of sound, Christian authors. As theology grew as a science, the inhibition against the Neoplatonist might grow weaker, but—this is the second factor—theologians still found themselves short of arguments in an academic world ever more critical, to justify the risk they might take by raising the subject at all. They must all have known about Macrobius, if only indirectly, and they could have seen in Macrobius' *Commentum* how cogently he put the case against suicide as an *unspiritual* way of dying. But they may still have recoiled at the passage's doctrinal flavour, without, for all that, being able to explain just why they recoiled. Such failure to explain an inhibition must, in the end, expose the latter to ever-stronger compulsions to break it. Finally, in Alexander and his team of top Franciscan theologians, the compulsions gave theology the push that bade them, *faute de mieux*, to avail themselves of the Neoplatonist doctrine.

That hypothesis would not only explain features in the story so far. It would also help explain its next stage. This was the explosive welcome given, around the middle of the thirteenth century, to a philosopher with nothing at all to do with Neoplatonism. Aristotle's entry to the story opens up its final phase.

The Reception of Aristotle's *Ethics*

Aristotle's *Ethics* entered the consciousness of Latin scholarship in the first half of the thirteenth century. Of the ten books of the *Ethics*, the second and third had been available in an anonymous translation since the early twelfth

[11] Above, pp. 202–3. A. Hüttig, *Macrobius im Mittelalter*. Freiburger Beiträge zur mittelalterlichen Geschichte, vol. 2 (Frankfurt am Main etc., 1990), 153–5, reads as exceptional, for Alexander, his use of Macrobius at this point. That only underlines the force of the appeal Macrobius must have had for this particular purpose. Hüttig, whose main interest lies understandably in Macrobius' cosmology, overlooks Abelard's previous use of the same text (see esp. Hüttig, 92).

century, and an effort had been made early in the thirteenth to take the task further, but it did no more than add Book I. One reason Alexander of Hales and William of Auxerre knew about this fragmentary *Ethics*—soon to become known as the 'Old Ethics' or *Ethica vetus*—was that, after 1215, it was publicly read in their University of Paris on feast-days. Commentaries and selections duly began to circulate, including commentaries translated from Arabic. Finally, in 1246–7, Robert Grosseteste, bishop of Lincoln, made a complete, new, word-for-word translation from Greek of all ten books. The 'Lincoln' translation at once became standard. About two decades after it was made, it received the accolade of a revised version, which gradually ousted the original. In all, nearly 300 manuscripts of the Lincoln translation survive.[12]

The translation had been a long time coming. Aristotle had appealed first, in Abelard's time, as a logician, then as a scientist. His moral and social writings were late in being translated, and the main stimulus came from a different quarter from that which had clamoured for his logical and scientific *oeuvre*. All the signs are that it was pastoral needs that led to the dissemination of Aristotle's moral and social works. Robert Grosseteste, after all, was a bishop, one especially active in promoting preaching and confession, and assisted in this by friars who, he once wrote, came back to him 'daily' with new questions. Similar urgencies besieged the Paris theologians, whether or not they were in the new religious orders, just then spearheading the Church's pastoral reform and in competition with the secular clergy to show they were socially useful. Behind the improvements in scholastic methodology, in other words, was a pastoral impulse, relating what was taught in the university to the everyday needs of ordinary people.[13]

It is this circumstance that gives the *Nichomachean Ethics* its historical significance for an understanding of the world it entered. History is easily seen as a series of bombardments by inventions and imports. The story of the *Ethics*, at least, shows this impact did not bombard scholastic thought from outside, but was invited in. There had been a gap which it filled. The *Ethics*

[12] The full story is told in R. A. Gauthier, ed., *Ethica* in *Aristoteles latinus*, vol. 26, fascicules 1–3, (Leiden and Brussels, 1974), fasc. 1, ch. 1–3 (MSS: pp. clii–clxviii). The account given by R. A. Gauthier, *Magnanimité* (Paris, 1951), 295–302 can still be recommended, and relates the story to that of scholastic ethics in general. A modern summary: B. G. Dod, 'Arisoteles latinus', in *The Cambridge History of Later Medieval Philosophy* (1982), 46–9.

[13] G. de Lagarde, *La naissance de l'esprit laïque au déclin du moyen âge*, 2nd edn, vol. 2 (Louvain and Paris, 1958): 'Secteur Sociale de la Scolastique', 9–27: 'Les débuts de la philosophie sociale au xiii[e] siècle.' I argue for the importance of pastoral concerns to the translation of the *Ethics* in my 'Confession as a historical source in the thirteenth century', in R. H. C. Davis and J. M. Wallace-Hadrill, eds, *The Writing of History in the Middle Ages: Essays presented to Richard William Southern* (Oxford, 1981), 275–322, esp. 310–17. The remarks by Robert Grosseteste are in nos. 40 and 41 of his *Epistolae* [ed. H. R. Luard. Rolls Series (London, 1861), 131–4].

owed its appeal, as influential new books usually do, to its capacity to articulate intuitions people had already half-recognized on their own. Nor can there be any doubt about the force of this appeal, since, although a latecomer among Aristotelian translations, the *Ethics* passed instantly, when it came, into the bloodstream of moral theology. Within two years, at most, of the completion of Grosseteste's translation Aristotle's *Ethics*, in that translation, was subject to public lectures by Albertus Magnus, while Aquinas, attending these lectures, took notes which would help him a year or two later, in or near 1271, to write what became a standard *Exposition of the Ethics*. Having thus penetrated the scholastic bloodstream instantly, the *Ethics* then proceeded to remain in it permanently. From the late thirteenth century, handbooks for confessors and preachers bear deep marks of Aristotelian influence, right through to the Reformation and beyond.[14]

The effect of Aristotle on suicide doctrine was therefore not a unique example of Aristotelian ethical influence; quite the opposite. Aristotle articulated moral intuitions on a wide moral front. The impact of the *Ethics* in our particular field will be understood, in fact, only if we recognize its more general acceptance, and, with that, the main characteristics of the moral doctrine to which the *Ethics* now gave voice. Three characteristics can be identified as predominant. The first—one long known among medieval scholars, as it happens, from an old translation of Book II of the *Ethics*[15]—was the one still encapsulated in our modern word 'moderation'. It taught that virtue is a mean between two extremes. This idea is in more than one way typical of Aristotle's social and moral teaching, in that it has an obvious logical flaw—because you have to know what the extremes are before finding the mean—but compensates for this, logic apart, by an equally obvious virtue: it respects traditional good sense, and aspires to social harmony. Logically or not, after all, sensible and peace-loving people *know* what moderate behaviour is, and Aristotle begins from there. It was part cause and part effect of the triumph of the *Ethics* that 'moderation' is found at various points of late medieval Church doctrine: the vigils and self-lacerations that had once been the sure mark of a saint, for instance, becoming increasingly suspect to many moral theologians (not excluding Grosseteste himself).[16] The fact that, from 1347

[14] Gauthier, *Magnanimité*, 295–302, 307–10; Van Steenberghen, *La Philosophie au xiii^e siècle*, 278; O. Lottin, *La Psychologie et la morale aux xii^e et xiii^e siècles* (Louvain and Gembloux, 1942–60), vol. 3, 539–76. Aristotle's penetration of confessors' handbooks is a principal theme of T. N. Tentler, *Sin and Confession on the Eve of the Reformation* (Princeton, NJ, 1977); while the same could be told of preachers, as, for instance (in respect of one preacher), by J. C. Roberts, 'The Influence of Aristotle on Late Medieval ethics: a study of the treatise "De via paradisi" by Remigio de' Girolami, O.P. (d. 1319).' Oxford D.Phil. thesis, 1990.

[15] Gauthier, *Magnanimité*, 299, n. 3.

[16] See especially his critical remarks about the sin of *curiositas* in the treatise on confession 'Deus est'; ed. S. Wenzel, *Franciscan Studies*, 30 (1970), 218–93, on pp. 274–5.

on, a canonized saint would have to possess, not just virtue but 'heroic virtue'—a term lifted straight from the *Ethics*—showed how much less was required from the ordinary common run of Christians.[17] For them, moderation was the essential. If a recent and influential hypothesis is right (and even if it is only partly right), a new emphasis on the doctrine of Purgatory gave hope to just such ordinary Christians—the hope that, despite a lifetime's moderation, they could still get to Heaven in the end.[18]

It may be too obvious to need saying that a teacher who teaches moderation will not approve of suicide, suicide being by definition an extremity. But Aristotle's moderation was linked with two features in his moral philosophy whose influence in this respect, though less obvious, was no less powerful. First, Aristotle was a naturalist. One strength of Aristotle's *Ethics* is that its author was accustomed to observing nature, especially living nature and including human nature. 'What sort of an animal *is* man?' Aristotle had asked. The very asking made Aristotle, *inter alia*, a sensitive psychologist. His remarks on suicide and bad conscience, of which a sample was quoted above in Chapter 4, from Book IX of the *Ethics*, are one illustration. There he observed how habitual criminals, on all sides hated for their depravity, seek to escape from life by killing themselves.[19] This is just one of Aristotle's psychological observations to have rung true to many generations of his readers. Nature as actually observed—not just thought about in the abstract—is thus a dominant theme in his ethical views. This makes Aristotle a realist in a different sense from Plato (whose 'real' world was the unseen one). And in the thirteenth century, while Aristotle's scientific works were eagerly acquired by those wishing to understand *non*-human nature, the *Ethics* appealed, for this reason, to a similar eagerness in the field of its human counterpart, and especially to psychologists.

It is Aristotle's naturalistic realism that gives its force to a third feature of his *Ethics*. Many scientists, in both antiquity and the Middle Ages, thought man must be an automaton. Nature as a whole was big, and ran by unchanging laws. So why should not man, who was little, do the same? But man did not appear that way to Aristotle. It was man's consciousness, his *nous* (*νοῦς*), that made man different. It was because Aristotle shared the normal moralists' premiss that man possessed free will, and could be virtuous, that Aristotle had written the *Ethics* in the first place. He wished to find out what virtue was, and his very hesitations in defining it show him at his most sensitive. Was the

[17] A. Vauchez, *La sainteté en occident aux derniers siècles du moyen âge* (Rome, 1981), 606–7, revising the later dating (to 1600–22) by R. Hofmann, *Die heroische Tugend* (Munich, 1933), 152–65.

[18] J. Le Goff, *La naissance du Purgatoire* (Paris, 1981); tr. A. Goldhammer, *The Birth of Purgatory* (London, 1984).

[19] 1166b. See p. 125 above.

most virtuous man a person like Alexander the Great, who did earth-shattering deeds? Or was he rather a Socrates, ready to suffer anything in the cause of truth?[20] If Aristotle leaned to the latter answer, it was not without thinking long about the nature of courage, an important factor, as we shall soon see, in his thinking about suicide. More important was a hesitation about virtue and human nature. Was virtue something you *had* to do? Or was it not rather something you really, in your heart of hearts, *wanted* to do? For Aristotle the delight a man can get from listening to music or from living in a harmonious community were both reflections of virtue. Virtue was its own reward. It bestowed deep satisfaction, and for Aristotle, a man's deeper satisfactions—certain later generations of moralists would insert the adjective 'spiritual' at some point—implied relationship to other people, even if the other people were out of sight. Right or wrong, this was the very opposite starting-point from that of the Cynics, and it led, as night follows day, to the opposite view of suicide. It was a view which proved, in the thirteenth century, engagingly easy to baptize.

In respect of suicide, the process of baptism had begun long before. In Chapter 3, we heard a socially based argument against suicide in the 'apocryphal' book of Tobit, where a woman abstains from killing herself because it would hurt her father.[21] Another was to be heard, in Chapter 4, in Cicero's reservations about suicide when it might hurt friends.[22] There exists even in a letter of St Augustine a trace of the idea in the use of the command 'love your neighbour as yourself' to preclude suicide.[23] But the idea is conspicuously absent from the suicide chapters of *The City of God*—as from those of the *Commentary on the Dream of Scipio* for that matter—and the very lack of enthusiasm for discussion of the subject between the early fifth century and the later thirteenth meant it was only then, in the later thirteenth, that the baptism of this particular Aristotelian doctrine—along (as it happens) with that of many others—became effective. The material presented so far in this study of suicide, in Volume I as well as (in a different way) in Volume II, has imposed the lesson that the essential elusiveness of suicide ends in failure. The dead person remains part of the main despite his attempt to escape from it, and the same has been shown here of suicide as an abstract subject, which must eventually resume its connection with the ethical mainland. In history, this last eventuality was effected, in the thirteenth century, above all by Aristotle. His *Ethics* changed the theologians' handling of the subject, and in a thoroughly Aristotelian sense. We shall find in their condemnations of

[20] Gauthier, *Magnanimité*, 56–118. [21] Above, p. 95. [22] Above, pp. 138–9.

[23] *Epist.* 204 §5; *Corp. Christ., Ser. lat.*, vol. 57, p. 320.8–11: 'in eisdem positum temptationibus mori volentem occidat et proximum, qui sibi expedire et licere putat occidere se ipsum, quoniam scriptura dicit: diliges proximum tuum tamquam te ipsum [Lev. 19: 18].'

suicide, that is to say, all three of the distinguishing marks I identified in Aristotle's ethics, namely: a more explicit respect for the normative value of nature; a subtler evaluation of virtue, especially courage; and, above all, an emphasis on the organic bond between individual and community.

All this is at once evident in the greatest of scholastic Aristotelians, Aquinas.

St Thomas Aquinas

The section of Aquinas's *Summa theologiae* devoted to ethics is known as *Secunda secundae* ('Part II of Part II'), and was completed probably in 1272. His *Summa theologiae*, like the *Summa Alexandri* twenty years before, was a compendium of the whole range of theology, written for its graduate students. So Aquinas's *Summa* gave him the same compulsion to say something of suicide, a subject its author scarcely touches on elsewhere, as if in acknowledgement that, but for the composition of a *Summa*, he would have obeyed the older tradition of reticence. The influence of Aristotle's *Ethics*, which Aquinas had first received in Cologne at the feet of Albert, is at once apparent in his placing of suicide within the *Secunda secundae* as a whole. Aquinas discusses it, as Aristotle did in the *Ethics*, in the context of justice, which, with its opposite, injustice, occupies over 300 separate questions in Thomas's *Summa*. Suicide is first mentioned in respect of the question that had provoked its discussion in the *Ethics*, namely whether a man can deliberately will an injustice to himself. Aquinas goes over similar ground to Aristotle's and, like him, cites the same 'ancient laws' depriving suicides of burial.[24] That allusion is however only brief, for a moment later suicide gets fuller treatment in just the connection where contemporary lawyers would have looked for it, namely homicide. Homicide, Aquinas allows, is a kind of injustice. At this point Augustine's influence becomes apparent, since the *Summa*'s eight articles *de homicidio* rehearse the same issues raised by the suicide chapters of *The City of God*: about war, criminals, animals and plants, and why private citizens may not execute anyone. Aquinas adds what we can recognize as the predicament of Charondas Tirus (without mentioning his name): that is, of the sternly just ruler who accidentally breaks his own law and therefore feels obliged to execute himself. Finally, Aquinas adds two questions of medieval concern: whether *clerical* criminals can legitimately be put to death ('no'), and whether it is ever allowed to kill innocent people (also 'no').[25]

In the midst of these questions, Thomas asks about suicide: 'Is anyone

[24] *Summa theologiae*, pt 2/2, quaestio 59, art. 3, 2 and ad 2 [p. 292]. Cf. above p. 127.
[25] Ibid., quaest. 64, arts. 1–8 [pp. 313–20]. For Charondas see p. 128 above.

allowed to kill himself?'[26] He presents his negative answer as the outcome of the normal configuration of arguments *pro* and *contra*. The novelty here is unmistakable. It is the commanding presence of Aristotle. Aquinas quotes the *Ethics* more often (four times) than either of the two previously reigning authorities, the Bible and St Augustine (three each), while vestiges of the Platonic tradition are confined to one, unattributed (we may not kill 'someone else's servant'). The new Aristotelian presence is not just a matter of single quotations, for Aristotle's spirit is present also in the elements I identified earlier. Aquinas's justice is a matter of more than mere biblical precept, it also follows from natural law: 'Killing oneself is therefore always a mortal sin, being both against natural law and against charity.'[27] As for courage, Aristotle's reflections on true courage in Book III of the *Ethics* are taken up by Aquinas to depreciate suicides like that of the biblical example of Razias, which (says Thomas, echoing the *Ethics* but now with a biblical example in front of him) has only 'a certain appearance of courage [*fortitudo*]', while remaining in reality 'a certain weakness of soul, unequal to the bearing of painful evils'.[28] Third, Aquinas brings Aristotle's *Polis* firmly into the foreground in its social incarnation as *Communitas*. The suicide, that is, cannot avoid sinning against society as a whole.

> Whatever obtains in one part of a whole must in that measure obtain in the whole. Since every man is part of a community, what happens to him must affect the community, with the consequence that to kill oneself is to do an injury to that community. This is clear from the Philosopher [the medieval sobriquet for Aristotle].[29]

The reading of this article alone would be enough to show how thoroughly Aquinas had made Aristotle's reflections on suicide his own. The *Exposition of the Ethics*, completed just after the last instalment of the *Summa theologiae*, confirms Aquinas's close reading of the appropriate texts.[30] The *Exposition* runs to about four times the length of its Aristotelian original. It is mostly concerned just to explicate the original with a paraphrase. In respect of Aristotle's main passage on suicide, in Book V, among small differences in Aquinas we notice a stronger tendency than in Aristotle to see the soul as a metaphor of the community, so that one part of the soul can thus be 'unjust' to another. I quote Aquinas, at the end of this part of his *Exposition*:

[26] *Summa theologiae*, pt 2/2, quaestio 64, art. 5 [pp. 316–17].
[27] Ibid., art. 5, Resp. [p. 316]. For natural law cf. p. 213 above. [28] Ibid., ad 5 [p. 317].
[29] Ibid., Resp. [p. 316]. Cf. *Eth. Nich.*, bk 5, ch. 11, §3. I therefore believe A. J. L. Van Hooff, *Autothanasia to Suicide* (London, 1990), 187, mistaken in saying that until the emergence of a strong modern state 'the potential damage to the community was never an important argument in European laws against suicide.' Cf. Ch. 9 below.
[30] *In decem libros Ethicorum Aristotelis ad Nicomachum Expositio*, ed. A. M. Pirotta and M. S. Gillet (Turin, 1934), bk 3, lectio 15, §§554–8 [pp. 189–90]; bk 5, lectio 17, §§1091–1108 [pp. 363–7].

Some give weight to this metaphorical reading because they see justice as applying within a man's own soul, in such a way that he can suffer from his own appetites. This can happen, for instance, if someone acts irrationally through anger or desire. Thus understood, the just and unjust elements are both present in one soul. It is as if they were the ruler and the ruled. . . . Justice . . . is [understood here] by similitude, in that the diversity of parts of the soul is compared to that of people [in a community].[31]

This interpretation, reflecting the interest in psychology evinced in the one and a half centuries before Aquinas, strengthens the perception of suicide as homicide. A soul, it implies, should be a commonwealth in harmony, whereas in suicide one part of a person is metaphorically killing another.

Two Local Broadcasters: Remigio de' Girolami and Guido Vernani

Aquinas's authority in the Church at large was not immediate, and it was only the fourteenth century that saw it take to the skies, especially after his canonization in 1323. But in respect of suicide, at least, Aquinas's contribution was decisive because his own order, the Dominicans, read him, and it was the Dominicans who led the way in systematic, evangelical pastoral theology, spread by preaching and in the hearing of confessions. So Aquinas's new approach to the question of suicide transformed the way it was handled, not least in that he had rendered the subject discussible; that is, his Aristotelian doctrines had improved the moral case against suicide to the point where a theologian need have fewer fears about raising the matter. That circumstance, coupled with a general growth in systematic homiletic literature in the decades around 1300, meant the subject was raised more often than before, and always with the same enriched range of considerations.

Again we face the problem of those thousands of pages. Late medieval theology is even more voluminous than earlier. Judicious sampling, I hope, will nevertheless tell some of the story, and to keep even that within limits I shall stick to theologians whose contribution lay more in broadcasting positions broadly like those of Aquinas rather than in developing new ones. That means leaving out, for instance, Durand of St Pourçain (†1332), a Dominican, whose *Commentary on the Sentences of Peter Lombard* has a *quaestio* on suicide with an interest of its own, not least its context: that suicide could now be discussed in relation to the *Sentences*, whose contagious avoidance of the sub-

[31] Ibid., bk 5, lectio 17, §1107 [p. 367]. I have slightly compressed the last sentence. Aquinas's introduction to this chapter claims that 'hic intendit determinare de justitia metaphorice dicta' [§1091, p. 364], whereas Aristotle had only spoken of metaphor in the coda [cf. §1106, p. 367].

ject was established at the end of the last chapter, is another sign of how domesticated it had now become. Nor does Durand leave any doubt who has made it so: Aristotle, whom Durand had read copiously on his own (Durand was independent of Aquinas to the point of contemporary scandal), and whose civic ethics dominate the *quaestio*.[32] But this unpredictable Dominican counts here as more a manufacturer than a retailer, and will be dropped from the sample for that reason.

Two other Dominicans, also of the generation after Aquinas's death, nevertheless qualify. One of Aquinas's most influential pupils was Remigio de' Girolami. Remigio was a Florentine Dominican friar, born *c.*1247, just after Alexander of Hales's death. He had studied under Aquinas in Paris in 1269, and returned to become one of the city's best-known preachers. Remigio's pages on suicide break yet new records by constituting the longest medieval theological treatment of the subject so far, and one which gains added significance because of the suicide epidemic we know to have affected Florence in his time.[33] It is clear from Remigio's sermons that he was a friar who watched his contemporary social scene closely, and indeed, may occasionally illustrate this watchfulness in respect of suicide. One of Remigio's *memento mori* sermons lists the various ways people may die: shipwreck, fever, being hit by a collapsing building, and many more. Near the head of the list is a mysterious pair, *dolore vel letitia*, 'by grief or by happiness', of which the first—assuming the second to include drunkenness and 'pranks'—may, if we choose to read it that way, be the preacher's tribute to the suicides we know to have happened in Remigio's milieu.[34]

The work in which Remigio laid out his reasons for condemning suicide was a treatise, written for reading rather than speech, called *De via paradisi*. Its intended readership was primarily other friars, and it was completed within a year or two of 1300.[35] The subject of the treatise is the Ten Com-

[32] *Petri Lombardi Sententias Theologicas Commentariorum libri iiii*, bk 4, dist. 17, quaestio 6; edition of Venice, 1621, fols. 340^{v}–341^{v}; Other than Aristotle, only Augustine, in *De libero arbitrio*, gets a mention (§9, fol. 341^{rb}). The whole *quaestio* extends to about 1,650 words.

[33] It runs to about 1,750 words. (I am not counting John of Salisbury as a theologian). For the epidemic, see *The Violent against Themselves*, 84–92.

[34] Remigio de' Girolami, OP, *Sermones de tempore*, in MS Florence, Naz. CS G4 936, No. 3 (De milite, fols. 392^{vb}–393^{rb} [cf. No. 7 (Nescit homo finem suum), fol. 403^{rb}, which refers back to it]. The passage in question is on fol. 393ra: 'tercio quantum ad modum; puta utrum de fame vel siti vel dolore vel letitia vel febre vel alia infirmitate, vel labore, vel casu sui, vel lapidis vel ruina vel naufragio vel incendio vel ab hoste vel a iudice decapitante vel suspendente vel incarcerante et cetera.'

[35] *De via paradisi* is in MS Florence, Naz., CS C 4 940, fols. 207^{r}–352^{v}. Cf. J. C. Roberts, 'The Influence of Aristotle' [as above, n. 14], for analysis and context. Remigio's long passage on suicide is on fols. 278^{rb}–279va, and expounds one aspect of the fifth commandment, 'Non occides', which covers fols. 276ra–283ra. Aristotle's brief reference to suicide in book 9 of the *Ethics* is mentioned with corresponding brevity on fol. 260^{vb}. I thank Dr Roberts for allowing me to profit from his detailed knowledge of this text.

mandments. Remigio attaches himself to the tradition, encouraged by *The City of God* and by Aquinas's *Summa*, of considering suicide in relation to the commandment 'Thou shalt not kill.' He expands on it at over twice the length of Aquinas's article just summarized.[36] Yet Remigio's treatment remains closely reminiscent of that in Thomas's *Secunda secundae*, almost certainly in the library of his Dominican convent in Florence by that date.[37] Sometimes Remigio tacitly follows Thomas's phraseology,[38] and the *Ethics* is again prominent. The older contributors are there, with Plato represented again only by the analogy of the servant who must not leave his place of duty. Like some earlier commentators, Remigio adds a reference to current judicial practice, in the disgracing of suicides' bodies. But the main difference is Remigio's Aristotelianism. His arguments against suicide are conspicuously based on nature, the psychology of virtue, and man's social character.

Apart from its greater length, two features mark off Remigio's treatment from Thomas's. In Florence, not Paris, Remigio feels freer to weave classical allusions into his exposé largely, as in John of Wales, from Valerius Maximus' *Memorabilia*. Second, more freely than the Paris theologians, the Florentine Dominican preacher uses the Church's legends to support his case. Perhaps he took them from *The Golden Legend*, the work of his Genoese confrère James of Varazze, finished around 1265, and certainly present in Remigio's convent library.[39] This use of legend is especially significant in relation to Augustine's problem cases, Samson and the female suicide saints, for Remigio took from *The City of God* the old principle that 'a special inspiration of the Holy Spirit' can justify suicide, and even adds emphasis to it by saying that resistance to such inspiration would be wrong. Here Remigio—not uncharacteristically—has entered deep water. There were stories in *The Lives of the Fathers* of hermits whom *demons* had tried to persuade to kill themselves,[40] and who had been saved by a timely revelation of the demons' identity. *The Lives of the Fathers* are noticeably absent from Remigio's sources at this point. They might have warned him. Instead, Remigio blithely quotes the legend of the pilgrim of St James to the effect that:

> If anyone should [commit suicide] through deception of the Devil, but in the belief that he is doing it by inspiration of God, he will easily win pardon from the most

[36] About 1,750 words, as against 770 in Thomas's *Summa* and 1670 in Thomas's *Expositio*.

[37] This can only be a strong surmise. Cf. S. Orlandi, *La Biblioteca di Santa Maria Novella in Firenze, dal secolo xiv al secolo xix* (Florence, 1952), esp. 5–6, 34 §158, and 42 §§314 and 322.

[38] e.g. MS Florence, Naz., CS C 4 940, fol. 279[rb]: 'Vita justorum [autem] est conservativa et promotiva boni communis quia ipsi sunt principalior pars multitudinis'; cf. Aquinas, *Summa theol.*, pt 2/2, quaestio 64, art. 6, Resp. [p. 318].

[39] Ibid., art. 5, ad 3 [p. 317]; Orlandi, *La Biblioteca di Santa Maria Novella*, 5.

[40] Below, pp. 578–80; cf. 382–4. On the Dominicans' interest in the *Lives of the Fathers*: A. Boureau, *L'événement sans fin* (Paris, 1995), 58–80.

merciful Lord and Lady, as we learn from the pilgrim from Lyons and the other man who went to Santiago.[41]

Remigio has made one *exemplum* into two, out of a convenient carelessness which tends to corroborate his novel position, and a consequence of the multiplicity of versions in which the Santiago story now circulated. We know from his other writings that Remigio was capable of idiosyncratic views, to judge them no more critically; and this was one.[42] We know its origin. Augustine's insouciant recourse to the Stoic doctrine of a special divine command, to explain the problem cases of Samson and the virgin suicides, had left open a fissure. Remigio opened the fissure wide. Was this a case of rising Stoic influence in the early Italian Renaissance? Or was it a case of ethical liberalism in an urban milieu where people the friar had known, or whose friends he might have known, had actually killed themselves? Or, just conceivably, both?

A second Dominican preacher to show Aristotle's influence was Guido Vernani of Rimini. Guido's preaching and teaching career extended from about 1312 to about 1334.[43] A recent study of his works has characterized their aim as that of inculcating sound moral and political views, or what Guido saw as that, into the governing classes of northern Italian cities. In the years Remigio was writing, Guido Vernani was still at school with the Bologna Dominicans. There he studied Aristotle's *Ethics* and *Politics*, with Aquinas's and other commentaries, and went on to teach in Bologna, and later in Rimini and Venice. Guido's *Sententia* on the *Ethics*, written about 1325, bear their own witness to the diffusive effect of a Dominican preacher's career.[44]

[41] MS Florence, Naz., CS C 4 940, fol. 278va: 'Si autem aliquis interficiat se ipsum vel quemcumque alium ex inspiratione Spiritus Sancti qui est actor nature et est ipsa caritas et ipsa iustitia per essentiam et est iudex naturalis cunctorum a quo est omnis ordo in creaturis, et est dominus principalis vite et mortis. Iuxta illud Deuteronomium 32 [39]: *Ego occidam et ego vivere faciam*, sic absque dubio licite hoc facit, et peccaret si huiuscemodi inspirationi quomodo licet contrairet, sicut Sampson qui computatur inter sanctos Hebreos [XI] intefecit se ipsum et multos alios secum . . . Si autem aliquis per deceptionem demonis hoc faciat, credens se hoc facere [fol. 278^{vb}] instinctu Dei, de facili veniam impetrat a misericordissimis domino et domina, sicut de peregrino lugdunensis territorii et de alio qui ad sanctum Iacobum ibant.' Other hagiographical examples concern saints Benedict and Justina [fol. 279^{rb}]. The miracle of St James: *The Violent against Themselves*, 277–86.

[42] Another example is in Remigio's *De bono communi*, where he advises his public to to defy excommunication if they judged it a danger to civic peace; C. T. Davis, 'An early Florentine political theorist: Remigio di Girolami', *Proceedings of the American Philosophical Society*, 104 (1960), 662–76, on pp. 669–70.

[43] J. Dunbabin, 'Guido Vernani of Rimini's Commentary on Aristotle's "Politics" ', *Traditio*, 44 (1988), pp. 373–88, with references to Guido's life on pp. 373–4.

[44] MS Venice, Marciana, Lat. VI cod. 94 (2492), fols. 1^{r}–56^{v}. Dunbabin, 'Guido Vernani's Commentary', 375–7. I thank Dr Dunbabin for having entrusted me with her microfilm of this manuscript.

This kind of *Sententia* was an unusual species of commentary. It did not have to be systematic and was written not mainly for theologians, but for laymen. The writer therefore had to hold their attention by simplicity, illustration, and choice of subject. So it is significant that Guido passes over Aristotle's remarks on suicide in the context of Justice (in Book V of the *Ethics*) and as the bad end to which criminals come (in Book IX). Instead, he devotes all he has to say on the subject to explaining, in respect of Book III of the *Ethics*, that truly brave men do not commit suicide. Courage, Guido says, is a mean between extremes, rashness and cowardice, and courage displays itself primarily in the face of death, the worst of physical evils. But that is only so when the danger is faced 'for a good and worthy purpose, and to flee a wrongful one'. Guido goes on:

> But the man who dies otherwise, by raising his hand against himself, or being freely killed by another, either to flee from poverty or through cupidity for something he cannot have, or from whatever other circumstance that may grieve him; this man has no part in courage but rather one in pusillanimity. And this for two reasons. First, it appears to reflect a certain weakness of soul that a man cannot put up with grief and pain. Second, such a man is not facing up to death to attain a positive good, but rather to flee from something evil and distressing.[45]

The phraseology shows that Guido must have had, under his very eyes as he wrote, Aquinas's passage on suicide in the *Summa theologiae*. The doctrine was now directed, however, not at theology students, but at a lay public.

A Pope and a Moral *Vademecum*: John XXII and Johannes Nider

Fra Remigio and Fra Guido have served as two instances towards our exercise in judicious sampling. Still keeping those thousands of pages and unprinted folios in mind, I continue the sampling exercise with two further figures, with complementary significance to that of the two friars just heard. These will show how the new configuration of anti-suicide arguments attained, respectively, to the summit of the Church's pyramid and its furthest corners.

To start with a pope. Aquinas's doctrinal authority spread first in the

[45] *Sententia, cit.*, ch. 3, MS Venice, Marciana, lat. VI cod. 94 (2492), fol. 14^{v}: '*Set quod aliquis moriatur manus sibi iniciens vel ab alio mortem libenter substinens propter fugiendam inopiam vel propter cupiditatem alicuius rei quam non potest habere vel quidquid est aliud quod ingerit tristitiam non pertinet ad fortem sed magis ad timidum.* Quod patet *duplici ratione. Primo quidem quia videtur esse quaedam mollities animi* quod aliquis non possit substinere laboriosa et tristia [MS: tristitia]. Secundo quia talis non substinet mortem propter bonum honestum sicut fortis set fugiendo malum tristabile.' The italicized words are direct quotations from Aquinas, *Expositio . . . Ethicorum*, bk 3, lectio 15, §557 [p. 190].

Dominican order, I said earlier, and only slowly became general, and no churchman played a greater part in raising Aquinas's authority than John XXII, pope from 1316 to 1334 (he canonized Aquinas and openly said he regarded his writings as 'miracles').[46] John became pope at the age of 72, from a background in canon law, built his own library at Avignon, and taught himself theology. The result, whenever we hear him utter on the subject, was a certain freshness and originality, leading at times, as with Remigio, to idiosyncrasy—dangerous in a pope, and especially one with an above-average number of political enemies.[47] In the 1320s, in the papal chapel at Avignon, he gave a set of sermons on the Assumption of the Virgin,[48] and turned one full sermon into an occasion for talking about suicide. The suicide sermon started from the text in St Paul's Epistle to the Philippians [1: 23] which had once or twice already, among professional theologians, served as a text for suicide discussion. It was the one which had St Paul say, as if explaining why the Virgin had to go to Heaven, 'I long to be dissolved and be with Christ.'

Pope John uses St Paul's remark as an occasion to discuss whether it is right to wish to die, and especially by suicide. His treatment of suicide in the sermon occupies about a third of its length. A remarkable feature of this Pauline text, as a starting-point, is that it looks at death positively, being another biblical instance of the seeing of death as a 'release'.[49] Like Cicero in *The Dream of Scipio*, the septuagenarian Pope John can thus start from the position that death is a spiritual good. So why should the Christian *not* yearn to be with Christ? As a late octogenarian John would explore the same preoccupation in certain highly controversial sermons about the Beatific Vision. Here, already, in his Marian sermon, he relates the yearning of saints to the Assumption. By both grace and desire the Virgin longed to be in Heaven, so that her Assumption took her to where she belonged. We too, if what St Paul says in II Corinthians (5: 4) is given its normal interpretation (though by nature we wish our souls and bodies to stay together), yearn by grace to go to Heaven.[50]

[46] Vauchez, *Sainteté*, 467 n. 58.

[47] On John XXII I follow N. Valois, 'Jacques Duèse, Pape sous le nom de Jean XXII', *Histoire littéraire de la France*, vol. 34 (Paris, 1915), 391–630; B. Guillemain, *La cour pontificale d'Avignon, 1309–1376*; 2nd edn. (Paris, 1966), 130–4 etc.; M. Dykmans, ed., *Les sermons de Jean XXII sur la vision béatifique*. Miscellanea Historiae Pontificiae, 34 (Rome, 1973).

[48] The sermons occupy all 112 folios of Paris, Bibl. Nat., MS lat. 3290. An eighteenth-century inscription on the title-page attributes the sermons to John thus: Sermones Johannis papae XXII ut creditur habiti in festis Divae Mariae et per F. Raymundum Procuratorem Ordinis Minorum suae Sanctitatis Servum Reportati. I follow Valois, 'Jacques Duèse', 536–43, in accepting the attribution. The sermon with the suicide passage is on fols. 16^{v}–19^{v}.

[49] See above, p. 96.

[50] Paris, Bibl. Nat. MS lat. 3290, fol. 17^{ra}: 'Sed cave quid dicas, quia Ephe V [v. 29] dicitur Nemo carnem suam unquam odio habuit, nec supple habere debuit. Et apostolus 2 Cor. V [v. 4] dicebat *nolumus expoliari, set supervestiri, ut absorbeatur quod mortale [col. b] est*, a vita. Ad

The model for Pope John's interpretation can again be found in his favourite theologian, Aquinas, though he merely quotes it as 'common'.[51] Autonomous as usual, however, John will not agree that the interpretation is complete since by nature people do *not*, he says, always wish body and soul to stay together. They commit suicide:

For a person can sometimes long for death without any gracious or charitable feelings, but rather through fear of punishment, to avoid life's miseries, from vainglory, and so on. Look at Judas, who killed himself not from feelings of love, but because he was damned. And there are other examples.[52]

The pope then proceeds to investigate this particular question in the more general context of the psychology of evil. Man naturally desires the good, he says; but evil can disguise itself as good, so that a man can choose evil for that reason.

Thus a person may sometimes seek out and wish for death in the belief that greater evil may be avoided thereby—a wretched life, say, or the shame of some wrong he has done. Then death is sought as if a good. You might argue that St Paul's longing 'to be dissolved and be with Christ' should be read this way, making death good, and hence ask why, in that case, you should not kill yourself.[53]

Like Scipio's father-in-law in *The Dream*—though Cicero and Macrobius are here sources notably absent—the self-taught theologian John now sets out to explain why suicide is forbidden.

hoc communiter* dicitur [quod duplex] est affectus vel amor, scilicet naturalis sicut ille qui est inter animam et corpus qui tantus est ut etiam anima separata a vita et beata suo corpori desideret reuniri; et gratuitus qui est quando [quis plenus est amoris et] caritatis et [tunc ad coelestem patriam vult] primum [transire]. [2] Corinthos [5] ubi dicit gloriosus apostolus *scientes quoniam dum sumus in corpore peregrinamur a domino*. Secundum affectum naturalem primum: apostolus in eodem capitulo [v. 3], *nolumus expoliari*. Sed in affectum gratuitum [secundum quod] **hic subdit [v. 8] Audemus et bonam volutatem habemus magis peregrinari a corpore et praesentes esse ad deum.' Between * and ** a blot on the MS defied even ultraviolet light, and provoked me to interpolations of which I have here enclosed the boldest in square parentheses.

[51] Cf. Aquinas, *De rationibus fidei contra Saracenos, Graecos et Armenos*, ch. 9, §§1011–13 [*Opuscula theologica*, ed. R. A. Verardo (Turin, 1954), pp. 265–6], where Aquinas is discussing Purgatory.

[52] Lat. 3290, fol. 17^{rb}: 'Set Fratres licet ista solutio vera sit non tamen videtur sufficiens, quia aliquando sine affectu gratie et caritatis quis mortem appetit propter timorem supplicii vel ad vitandum miserabilem vitam vel propter vanam gloriam et cetera. Exemplum in Juda qui se ipsum occidit non ex caritatis affectu quia dampnatus fuit, et in aliis patet. Non ergo videtur quia haec sufficiat.'

[53] Lat. 3290, fol. 17^{rb}: 'Que ergo potest esse causa? Dicendum quantum ad praesens spectat, quia voluntas hominis libera indifferens est ad bonum et malum, objectum tam eius bonum est quod omnes desiderant. Interdum tamen ad malum vertitur, quia ab ipsa sub specie alicuius boni accipitur. Sicut aliquando quis mortem eligit [fol. 17va] et appetit putans per hoc maius malum vitare, scilicet vitam miserabilem vel alicuius peccati commissi turpitudinem, et sic voluntas mortem accipit sicut bonum. Sed dices, Si cupis dissolvi et cum Christo esse et hoc bonum est, quare non te interficis?'

The historical interest of the pope's argument, as of Remigio's, lies in his selection and use of sources. The authorities he names are, to begin with, not identical to those he uses. Among named acknowledgements in this section, Aristotle's *Ethics* comes first, being identified three times;[54] Augustine's *City of God* is mentioned twice, while St Thomas is not mentioned at all—although we can be all but certain, from the phraseology, that John wrote with the *Summa theologiae* lying open in front of him. Acknowledgements apart, John rehearses most of the old Augustinian themes, teasing out the required interpretations of 'Thou shalt not kill' and giving prominence to the prior divine revelation which, in Augustine, justified Samson's kamikaze behaviour; though John is free from Remigio's awesome doubt that the divine revelation may in fact be demonic. The pope could, it is true, have read of such demonic admirations in legends, but we know John was no enthusiast for those.[55] For once, we have no mention at all of those famous suicide virgins. The one theme which John labours, at almost pedantic length, is the one I have dubbed the Charondas Tirus dilemma (after the tale in Diodorus Siculus); namely that of the supreme judge who commits an offence deserving the death penalty. Should he kill himself, and if not, why not? John was, after all, a professional lawyer and now, like Charondas himself, a judge from whom there was no appeal.[56]

All three allusions to the *Ethics* are acknowledged, not to say vaunted. For by now John could have picked up all of them at second hand. All the references to the *Ethics*, now, and in contrast to Guido Vernani, are to Book V. The social aspects of suicide were clearly paramount to the lawyer pope. He explains that

> [Suicide] injures the community because a part derives its being from membership of a whole. Every man is part of a community and is human for that reason. Whence, in killing himself, a man does injury to the community. This is clear from *Ethics*, Book 5.[57]

The Latin word for *polis* there is *communitas*. Later John returns to the *Ethics* to help answer the question how a suicide can be punished, and perhaps because 'communities' did not have quite the penal powers of 'cities', it

[54] See n. 57 below.

[55] Cf. pp. 233–4 above. 'Thou shalt not kill', etc., is on fol. 17$^{va–b}$; Samson, on fol. 17^{vb}.

[56] Above, p. 128.

[57] Lat. 3290, fol. 17va: 'Nullum autem virtus est licitum vel faciendum V Eth. [ch. 11] quia injuriat et communitati et deo. *Communitati quidem quia quaelibet [pars] id quod est, est totius. Quilibet autem homo est pars communitatis et ita id quod est, communitatis est. Unde in hoc quod qui seipsum interficit iniuriam communitati facit ut patet* V *Ethic.*, et sic peccat et puniendus esset, sicut ille qui interficit volentem est puniendus, quia iniuriam communitati facit.' The italicized words are in *Summa theologiae*, pt 2/2, quaestio 64, art. 5, resp. [p. 316].

is the latter word, now *civitas*, that John stealthily allows to convey Aristotle's meaning:

> According to Arisotle, *Ethics* 5, because a suicide does an injustice and injury to his city, as said above, the city punishes him by confiscation of his goods and dishonour to his corpse, for sometimes it has the corpse dragged or refuses it proper burial.[58]

This passage betrays another of John's special divine commands. He has added to Aristotle's list of suicide punishments, that of confiscation (*publicatio bonorum*).

With Pope John XXII we are in the presence of a lawyer; and the lawyer, for his part, was in the presence of the contradiction that divided classical Roman law and Christian theology. We historians can sit in our glass box and watch the lawyer's mental discomfort, itself a document. For Pope John goes on, after the last passage quoted, to rehearse the legal authorities for punishment, first from Braga, then from Roman law, whose mosaic of punishments John explains at length. And as he does so, he gradually becomes conscious of the inconsequence of Roman law for the theological principle he is trying to defend. So what does he do? Embarrassed by the drift of his own citations, the pope abruptly breaks off, to summarize all he has said:

> But according to divine law [John finishes, bringing *divine* law—*nota bene*—back into the debate] a suicide is punished by eternal pain, for by killing himself he acts against natural law, against charity, and against the Lord's commandment. Hence he is in mortal sin and dies in it, as did Judas, who was damned because he despaired of pardon and hanged himself, *et cetera*.[59]

Rome—or in this case Avignon—had spoken.

The moral intuitions to which the *Ethics* had given articulation thus became, at the church's highest level, part of the common treasury of doctrine. That they also reached out horizontally is shown by one last contributor to the present sampling exercise. He is Johannes Nider, a German Dominican who died in 1438. Nider wrote his *Praeceptorium* in the 1420s or 1430s.[60] Like Remigio's *De via paradisi*, the *Praeceptorium* was a commentary on the Ten Commandments. *Un*like Remigio's treatise, Nider's book was very

[58] Lat. 3290, fol. 17^{vb}: 'Sed dices, qua pena est puniendus qui se ipsum interficit? Secundum philosophum, V Eth. xiiii [= ch. 11], quia talis civitati iniustum et iniuriam facit, ut superius dictum est, civitas punit eum publicatione bonorum et inhonoratione corporis, quia aliquando illud facit trahi vel mutilari, seu non permittit tradi sepulture.'

[59] Lat. 3290, fol. 18ra: 'Secundum vero legem divinam interficiens se punitur pena eterna, quia se occidendo [col. b] facit contra legem naturalem et contra caritatem ac contra praeceptum domini et sic peccat mortaliter et in illo moritur, Exemplum in Juda qui dampnatus fuit quia desperans de venia laqueo se suspendit, & c.'

[60] *Praeceptorium, sive orthodox et accurata decalogi explicatio.* I have used the edition of Douai, 1612, and on the author have consulted C. E. Schieler, *Magister Johannes Nider, aus dem Orden der Predigenbrüder. Ein Beitrag zur Geschichte der 15ten Jhs.* (Mainz, 1885.)

widely copied and read, mainly but not exclusively in Germany. Between the beginning of printing and 1500 it went into seventeen printed editions.

Like Remigio, Nider treated suicide in the section devoted to the fifth commandment, 'Thou shalt not kill.' (He had glanced at the subject in the earlier context of 'Despair', but there treated it simply as a 'Bad End').[61] The ways in which the command can be breached have now risen to fifteen and, as in Abelard's *Sic et non*, so in Nider's *Praeceptorium*, our Cinderella takes last place. In this place, Nider's hurried summary of the arguments against suicide betrays how Aristotelian ideas have pushed their way to the fore. The marks of the doctrinal grafting, as Aristotle was added to Augustine, are still visible. The following translation tries to preserve Nider's phraseology.

> Whoever raises a hand against himself [writes Nider], by killing himself of his own free will, sins mortally, unless this is done by special and certain revelation of God, as Augustine said of Samson in *The City of God*, Bk I [ch. 21]. In any other case, the self-killer sins mortally, and all the more gravely in that he acts against his natural inclination, by which each of us is bound by reason to love himself, and naturally does love himself. Thus he sins against natural inclination, that is, against charity towards himself, and against the common justice of which he is a member, and he robs himself, too, of any time to repent.[62]

The reader of this chapter will spot the grafting: *tanto gravius* ('all the more gravely'). For it may be questioned whether natural or any other considerations could make the early medieval sin of suicide *graver*. What they did, together with the social considerations for *justitiam communem*, was to give solid reasons why suicide should be thought sinful at all. God's commandment apart, Nider hardly gives any other.

The *Praeceptorium* goes on, in fact, to extend its stigma to oblique forms of alleged suicide, including self-mutilation and the indiscreet ascetic practices which, Nider says, shorten a man's lifespan, as when a person thinks himself holy and sure of future glory and tries to hasten his arrival in Christ's presence through harmful vigils and fasting.[63] That too is against the fifth command-

[61] *Praeceptorium, Praeceptio* I, ch. 3, §7 [p. 22]: 'tale peccatum in spiritum sanctum [= that of Cain, in Gen. 4: 13] semper habet coniunctam malitiam, pro eo quod qui sic desperat, in tali culpa vult vitam suam finire. Unde tales desperatissimi frequenter sibi inferunt mortem.'

[62] *Praeceptorium, Praeceptio* 5, ch. 15, §7 [p. 347]: 'peccat homicidio, qui sibi manus iniicit, se voluntarie occidendo, nisi ex speciali Dei revelatione certa hoc fieret: ut de Sampsone dicit Augustinus primo *de civitate Dei*. In quolibet alio casu peccat mortaliter se occidens, et tanto gravius, quanto agit contra naturalem inclinationem, qua quilibet tenetur se diligere ex ratione, et diligit naturaliter, et sic peccat contra naturalem inclinationem, id est contra charitatem sui, et contra justitiam communem, cuius membrum et, et sibi adimit homo tempus paenitendi.'

[63] *Praeceptorium, Praeceptio* 5, ch. 15, §7 [p. 347]: 'Aliquis sic se sanctum se putat, vel iustum, ut securus de gloria, iam impatiens, pro patria se affligit per indiscreta ieiunia, vigilias, et caetera

ment. But the condemnation of these practices shares one rationale with that of simple suicide, in that no more reasons are attached. It is all left to one thinker, whose footprints the reader will by now recognize. Aristotle has attained to the final honour, in Nider's popular manual, of being *unnamed*—so deeply had the moderate, down-to-earth, socially minded Greek peripatetic lodged in medieval Church doctrine.

Conclusion

In conclusion, certain general features can be identified in the story told in these two chapters, and two especially. The first is the variety of contexts from which a discussion of suicide could arise. At least four of the eight or nine biblical suicides gave rise to it, namely those of Samson, Saul, Razias, and Judas (with Jonah, if Jerome's remarks on him are included), while a similar number of classical suicides could do the same, notably, besides Cato and Lucretia, those of Diogenes and Epicurus. Doctrinal passages could also give rise to discussion, and here the unique status of the Bible made it more prominent than classical philosophy. The same goes, within the Bible, for the fifth commandment, 'Thou shalt not kill' being the most frequent single text of all that gave rise to suicide commentary. But other, quite unexpected, non-narrative passages could also serve, most notably St Paul's 'I long to be dissolved and to be with Christ.' Despite the example of Macrobius' commentary on Cicero, the *Nicomachean Ethics* was the occasion of exposition rather than debate. This variety in choice of authorities which provoked theological discussion of suicide contrasts with a corresponding conservatism in commentary on Roman Law, where the same subjects tended to invoke the same texts.[64] It fits, furthermore, with the pioneering character found in the theologians' reasonings on suicide. Many quoted St Augustine, it is true, as if they were not pioneers, and without the improvisations, the originality, and the occasional inconsistencies which pioneering entails. But St Augustine himself had been an improviser; and the moment a medieval academic went beyond him he exudes the same qualities, as was found with John of Salisbury, Remigio de' Girolami, and John XXII. All were improvisers—a fact which may indeed explain why they picked on the subject to start with.

Within the variety of contexts and approaches to suicide, two alternative groups can be distinguished. One saw suicide as an act, the other as express-

exercitia corporalia, et propter hoc sibi abbreviat vitam, ut cito sit cum christo.' For Grosseteste's aspersions on *curiositas*, see his 'Deus est' (below, p. 378, n. 16), 274–5.

[64] P. Weimar, 'Die legistische literatur der Glossatorenzeit', in Coing, ed., *Handbuch der . . . Privatrechtsgeschichte*, vol. 1, 171.

ing a disposition. Put another way, suicide can be seen primarily as a kind of violence, as in the commandment 'thou shalt not kill'; or it can be condemned for expressing negative thoughts, as in its association with despair. One contribution from Aristotle was to help bridge this distinction by coupling the negative character of the suicide's inner disposition, cowardice, on one hand, with, on the other, the social consequences of the suicide's injustice or violence. The social, horizontal nature of Aristotle's ethics, and his readiness to see a metaphor between a man's internal and external justice, drew attention away both from the bloody, violent character of the act and from the stubborn, godless disposition. The suicide became simply 'unjust', within and without. The original distinction between act and disposition will nevertheless be found frequently in the other fora where views were expressed, like poetry and art. Some people, that is, will be found thinking of suicide first as a violent act; others, as a sign of inner despair. I hope to come back to these and related ethical questions in the final volume.

That is the first general feature of the literature just reviewed. The second is the dominant role played by pagan authorities. In respect of suicide, the shift from tolerance to condemnation had apparently been a mark of Christian law. Christians spoke more strongly, and more consistently, against suicide than did any pagan school of philosophy. We shall have a chance of judging their debt in this matter to their Semitic inheritance, at the end of this volume. The fact alone is what concerns us now. For it is at first sight remarkable that, when Christians had to explain this peculiar animus of theirs, they appealed for support largely to writers quite outside the Semitic religious traditions. It is true that the Bible said nothing unmistakable and explicit against suicide, beyond a commandment whose acknowledged exceptions left a trail of doubt about its application to this instance—the doubt contained in, and witnessed by, St Augustine's often repeated apologia. But that only partly solves the puzzle. The theologians could have made more of the Bible, not least by discovering other texts (as we did, in Chapter 3). Instead they turned to the ancient philosophers, reiterating that a soldier must not leave his post, a prisoner his bonds, or a servant his employment; that we are God's property and our lives are his gift, not to be despised; and the rest. Christian thinkers thus gratefully plundered their pagan philosophical tradition even before Aristotle arrived to enrich it.

This free recourse to non-Christian moral teachings, far from being a parenthesis in medieval theology, was typical of it. Suicide was just one more subject on which the Christian apologist employed non-Christians to defend positions which he, as a Christian, had already adopted. After all, the near ubiquity of Stoics in early medieval ethics was one of those provocations which forced Christians into making suicide an exception—the one bad Stoic

act among so many good ones (and an act proved bad with the help, once again, of yet other non-Christian sources). This does not mean Christianity played no part in building its own ethics. What Christianity gave its devotees, in their confrontation with classical philosophy, was a criterion of choice, an ultimate principle by which to choose between the variety of doctrines philosophy had to offer. In this Christianity was like a living organism, digesting or rejecting the food it is offered according to a principle within itself, a principle which tests the food on the basis of the question, 'will it help me or harm me?' Occasionally, like any living organism, Christianity made mistakes—as it did in this connection with Macrobius, whose beguiling arguments on suicide were at first not seen as unorthodox, and even found their way into a *Summa*. But such mistakes were rare and brief, and soon labelled as such, while the organism itself went on, choosing and feeding on what the community of philosophers had to offer.

That the support of ancient philosophers was employed to back a position Christians already held was hence not exceptional. Nor are the surprises this method can spring on the modern reader. The biggest of these must surely remain the doctrine of the special divine command. The improvising St Augustine, we learned, had explained certain embarrassing suicides—those of Samson and the saintly virgins—as due to a special, private command from God. This notion he can have learned only from the Stoics. Once embedded in *The City of God*, the theory of the special command stayed anchored in the literature. Of course it bristles with problems. The main one is well exemplified in the accounts, available to medieval readers, of monks or hermits who thought God *was* giving them a command to commit suicide, but where it turns out to be the Devil and not God who is giving the order.[65] But we know from reports of actual suicide, from other sources, that some monks actually did kill themselves, without leaving any message as to why, and it is not at all unimaginable that these were cases where the Devil had failed to unmask himself in time. The special command doctrine thus drove a gulf through moral principle—as it had done, let it not be forgotten, when God had specially commanded Abraham to kill his son Isaac. Doubtless the gulf was bigger when the person who appealed to it was in an emotional crisis, at just the moment, that is to say, when he most needed clear guidance. So the greatest of western Fathers had endorsed a dangerous doctrine. It would be wrong to pretend that its effect on all subsequent literature amounts to a crippling of all Christian suicide theory, but the feature remained a flaw. An even more perilously independent-minded theologian like Remigio de' Girolami could fret the flaw out into a major anomaly. You *must* listen, we have heard him say, to

[65] I plan to identify some of these accounts, in the context of temptation to suicide, in *The Mapping of Mental Desolation*.

a special divine command to kill yourself, if it comes, and if it proves to be from the Devil, you will doubtless be forgiven as St James's pilgrim was.

The anomaly is also historically instructive. We recall that Plato and Plotinus, though against suicide in general, allowed an exception in response to a special divine command; and that it was Porphyry and Macrobius who closed this door, teaching that it was never, *ever* permissible to kill onself. Christianity, of course, taught this. But when it came to explaining it, as we have seen in these chapters, Augustine's Stoic-soaked background in rhetoric meant that this precarious excuse for Samson and the virgins kept creeping in. At the very moment the pagan philosopher Macrobius was shutting the door on suicide, that is to say, the Christian rhetorician St Augustine was pushing it back open again. Which of us now doubts the capacity of suicide to create paradox?

Aquinas, when aged about 47, is said to have had a vision which prompted his rejection of all he had written, as 'so much straw'. One lesson of that story is that we can all pay too much attention to what theologians wrote. Most of them were prayerful clerics and had other sources of knowledge than books, together with other ways of conveying it. The promiscuous character of the written authorities which they used to justify their view of suicide casts no reflection on their conviction that the act was wrong. They loathed the very thought of suicide, and would have protested that, as John of Salisbury said of Pythagoras and Plato, they were not inventing their condemnations, merely stating a truth which had always been there. Since Christian teaching was relatively slow in spelling out its reasons for this view, and so eclectic when it came to doing so, it may indeed be wondered where the conviction came from, a conviction stronger than that in Platonist or Aristotelian tradition, even though Christianity plundered both when it came to furnishing the Christian position with an articulate rationale. An attentive student of medieval spirituality might suggest the conviction did not come from any bookish source at all, but from the geometric centre of Christian belief and liturgical life, engaged in day-in and day-out: namely the Passion, whose principal figure suffered all that *can* be suffered, in patient submission to God's will, in an act to which the impatience of suicide stands as antithesis, and any apologia for it—on other than the capacious grounds of human weakness—as an affront. That is at least an idea worth thinking about. The question is in any case an important one, and another of those we can to come back to. Meanwhile, having heard what medieval academic theologians made of their religious and philosophical inheritance from the ancient world, it is time to see what contrasts and comparisons are to be found in that other world in which ideas of right and wrong found expression: law.

8

Canonists and Jurists

Religion; philosophy; law: the persons of this trinity were in ceaseless mutual communication, giving and receiving, never confused. At the point where the first two enmeshed, theology gradually sought out reasons for its old, and apparently intuitive, horror of suicide. The same scholastic tandem, of religion and philosophy, meanwhile looked in a third direction, outwards and downwards to the practical world, as it engaged in a similar discourse with law.

Applied to the Middle Ages, the word 'law' has, in practice, a subtle variety of connotations, so subtle as to be already obscured by the terms we use to define it—'customary', 'written', 'Germanic' or 'Roman' law, and so on. These categories are needed to map an entrance into the legal world, but their user, once there, must always be ready to suspend the categories—if, that is, he is not to miss impulses passing ceaselessly over their frontiers. These free-travelling impulses are especially important in respect of suicide. The act of suicide was fearful and mysterious, and one to which people found it hard to rationalize their reactions, and this fact gave suicide law two qualities in apparent contradiction. It was inert; yet vulnerable. Suicide law was inert, because in the absence of any powerful, non-rational influence for change in the law, the fact that no one was likely to find rational grounds for change meant that the law endured. Yet if such an influence should appear—be it a Stoic emperor or a dark-age Catholic bishop—to insist that suicide was either snow-white innocent or tar-black guilty, no one, for the same reasons as before—that is, a lack of reason—was likely to find ready grounds to contradict him. In that case the new influence spread, for or against, with a momentum easily forcing the frontiers of legal systems. Suicide law, while naturally motionless, was therefore vulnerable to change coming on it from outside. To put it another way, suicide as a subject is rationally helpless, and it is this helplessness which lies behind the proven tendency of law in its regard to oscillate between extremes, the extremes of indifference and hostility. It is the same peculiarity that frees the patterns of suicide law from the familiar lattice of

legal systems, because the extremes native to it do not sit tidily in separate branches of law. We cannot say, 'Germanic law said this' or 'canon law said that'. Rather, suicide law constitutes, behind the lattice, a configuration peculiar to its maverick material, a configuration inaccessible to the usual formulae of legal history, which retire powerless in the face of this odd man out, and inviting, instead, those of psychology or anthropology.

I said that while the pattern of human reactions to suicide does not correspond with the ordinary lattice of laws, that does not mean it is not present in different parts of the lattice. A parallel can be drawn with the contiguous disciplines of religion and philosophy. It was seen how neither religion nor philosophy had a single view of suicide, however distinct the centres of gravity of the two traditions might be; any more than there was a single legal view, or even a single canonical or civilian view, or a single view in customary, and another single view in written law. This is all, again, because reactions to suicide form a configuration of their own, with the consequence, among others, that the configuration is only discoverable from the ensemble of these past disciplines. That, in turn, means that the historian's picture of it must be filled in block by block, in the manner—to resume the comparison drawn in the introduction—of a painter who addresses his brush successively to distinct features of a landscape: hills, trees, buildings, sky. The landscape as a whole, with its general geometry of light and shadow, nearness and distance, and its distinctions of colour, will only emerge at the end, when the separate elements are united. That is my hope of the picture painted here. A glance at the table of contents will identify the series of blocks I have distinguished for the representation of this particular landscape. A chapter on the formal categories of law can only expect to fill in one block, or a group of two or three, in a scene with other perspectives and colours, perspectives and colours to be added, in subsequent chapters, from associated areas of usage and belief.

The present chapter, then, will be devoted to discovering how medieval lawyers—the kind who thought of themselves as lawyers and were remunerated as such—responded to the ancient written inheritance in law. It will therefore investigate the most familiar categories of medieval written law, canon and Roman, to see how its practitioners treated their authoritative texts. Here, as elsewhere, suicide will be found to be a special case, capable of illuminating the extremities of the intellectual history in which it lodged. It is well known, to medievalists at least, that while in many areas canon and Roman law fortified each other, there were a few notorious areas where the two could come into conflict: as (for instance) in the political relations of pope and emperor, who were supposed to act in harmony, and did for much of the time, but could on occasion be in head-on battle. There are many other examples. Yet nowhere, in theory, was the conflict of the two laws so necessary

or sharp as in respect of suicide. For in one of the inherited laws, Roman, suicide was emphatically innocent, in the other, canon, emphatically damned. As in theology, so in law, suicide was in this particular a privileged point of collision between two rival systems of jurisprudence. Like all collisions, we shall see, this one generated energy. Both traditions, that is to say, civil and canon, were subject to commentary, in which the two sets of tensile forces, meeting at the one privileged point, modified the thoughts of all who engaged in it.

Earlier, looking ahead over the history of the two laws, I summarized their mutual effect on each other in one word: convergence. It was a convergence due partly to mutual magnetism, and partly to cross-frontier impulses which affected both sides. No single word catches every movement of a living organism. In the movements of this one we shall see both more and less than convergence—more, in that some suicide provisions will become identical in Roman and canon law; less, in that a few details will escape any convergence at all, and stay at opposite extremes. But if there is to be a one-word summary of the message of these complicated texts, convergence remains the right word, for reasons which will, I hope, become clear as we look to the two bodies of law.

In studying the written law up to the year 600 we looked at Roman civilian law first, canon second. That order of procedure reflected their chronologies, and the relationships of civil and ecclesiastical powers in the declining Roman Empire. Now, the same considerations will dictate the opposite order of procedure, and require that canon law be put first.

Canon Law

In view of the extreme heinousness which churchmen attributed to suicide, it might be fair to expect plenty of canon law on it. But the lawyers, like the theologians, disappoint us. In Gratian's *Decretum*, the great compendium that opened a new area in canon law *c.*1140, offences presumably less grave—adultery, say, or attacking clerics—got several pages each. Suicide has twenty-four lines. It was not as if no one ever committed the offence. The first volume of this trilogy, *The Violent against Themselves*, proved otherwise. Nor was it as if the brief canons that did mention suicide said all there was to say. Strict laws, even if inviting no other commentary, normally accommodate accessory enactments relating to enforcement—since the stricter the law, the greater the difficulties normally attendant on putting it into practice. Suicide got no such accessory enactments (unless the substantive law itself be counted as that). Canon law, in a word, was almost as reticent as theology. When it did

have to speak it did so, usually, by means no more inventive than the tireless repetition of formulae.

Yet canon law was not its own master, or not entirely. As our survey of Roman law in Chapter 5 showed, law, as distinct from more abstract categories of speculation, faces its own set of difficulties; it has to judge flesh-and-blood cases with all their theoretical untidiness, scrappy data, and impatience for practical answers. In this respect the only difference between canon law and Roman was that it confronted these difficulties on the basis of different suppositions about suicide. Thus we saw that in Roman law the offence of suicide, where it was an offence at all, was accidental to other offences, indirect, and conceived as injurious to the state. In canon law, by contrast, the offence was intrinsic to the act itself, direct, and conceived as an injury to God. In one respect these differences made the practical side of things easier for canon law than for Roman. If *all* suicide is wrong, the motive for it does not matter. It only matters that the act is deliberate. So canon law did not have to hazard nice judgements about whether the act had been done from *taedium vitae*, or debt, or military cowardice. Conversely, since the wrongness of suicide for canonists lay—or ought to have done, and in due course did—in its consciously deliberate character, the canonists had to range over a wider variety of the suicide's antecedent acts to discover the factor that mattered, namely intention. It was not, as it was for the Roman civil lawyers, just a case of a defendant's hanging himself in prison and *ipso facto* proving himself a rogue. Canonists had to bring all kinds of suicide into the reckoning, all, that is, in respect of this one factor, a factor which (furthermore) had to be judged with the utmost precision. What precisely (they had to ask) constituted an intentional act? If a hitherto pious and charitable man killed himself, could his act of suicide be judged in some way *not* to be the result of his own will? Again, had he repented before dying? Who knows what states of mind someone goes through in the seconds, no, in the one second, indeed in the most split of split seconds, before dying by suicide? No one can deny that canon law had a problem there. For if suicide is the one offence of which a man cannot repent it is also, as a result of identical circumstances, the one to whose accompanying states of mind survivors have least access. God knows; there can be no doubt about that. But how can anyone else know, and judge, for eternity, the mind and intention of a dying suicide? Finally, among problems canon law had to worry about, was the question of sanctions. The early canons said there were to be no Masses, offerings, or psalms. But here again there were difficulties. Did that mean *no one* could *ever* say a *single* psalm for the dead? Was the Church forbidding Christians from praying? Was compassion itself disallowed, and if allowed, was it to be unexpressed?

Let us be clear: these were problems for canon law rather than for theology. Law has to take a firm stand and ignore secondary questions. But ignoring

them is not the same as making them disappear, since the questions arise from the very nature of life and cannot disappear. Instead, what they do is set up camp round the law like so many jealous rebels, ready to open the law's fissures and change it the very moment a strategic opportunity appears. That such an opportunity could ever arise may seem on the face of things unlikely. After all, that short, sharp Braga canon (quoted in Chapter 5) had matters more or less to itself for several centuries. Nowhere, it seems, did the law speak with a less divided voice. But the undebated repetition of an old formula does not necessarily show that its users were unmoved by rival considerations. It will be seen that the Braga canon, throughout its long reign, was in fact under constant tension. Any law must be whose task is to hold opposites together. Later chapters will study sources of tension outside the law, respectively in its anthropological and political environment, exercising their influences, unannounced, on the way the law was read and executed. In the present chapter, my aim is to show hints of the same tension in the heart of law itself.

The demonstration begins, not in Church councils or among canonists of the central Middle Ages, but in another branch of the discipline, originally unconnected with that of the councils: that of the so-called penitential books.

The penitential books

The genre

The documents which go by this name consisted of inventories of moral and social offences, accompanied by a tariff of corresponding penances.[1] The books were compiled between the sixth and the eleventh centuries, and extend in modern printed editions to between two and over a hundred pages each. The genre had no regular contemporary title, nor, usually, did the individual books that made it up, though some of the books can be identified by the ascriptions they carry, with varying degrees of credibility, to famous

[1] C. Vogel, *Les 'Libri paenitentiales'*, 'Typologie des sources du moyen âge occidental', ed. L. Génicot, fasc. 27 (Turnhout, 1978); A. J. Frantzen, 'Mise à jour' of the same title (Turnhout, 1985). I shall refer to these below respectively as Vogel, *Libri* [*paenit.*], and Frantzen, *Libri* [*paenit.*]. I have relied also on Dr Frantzen's *The Literature of Penance in Anglo-Saxon England* (New Brunswick, NJ, 1983), and on the editorial introductions and commentaries in three major presentations of texts: J. T. McNeill and H. M. Gamer, *Medieval Handbooks of Penance*. Records of Western Civilization (New York, 1938; reprint 1990); L. Bieler, ed., *The Irish Penitentials*. Scriptores Latini Hiberniae, vol. 5 (Dublin, 1975); and R. Kottje, ed., *Paenitentialia minora Franciae et Italiae saeculi VIII–IX* [= *Paenitentialia Franciae, Italiae et Hispaniae saeculi VIII–XI*, vol. 1]. *Corp. Christ., Ser. lat.*, vol. 156 (Turnhout, 1994). Bayet, *Le suicide*, 403–8, records a thorough scrutiny of passages from the penitentials as understood in his day (the 1930s), though on the basis of what I believe to be an imaginary moral distinction, slightly confusing an otherwise fruitful interpretation of the texts. Other instructive surveys of suicide in the penitentials are in Inhofer, *Der Selbstmord* (Augsburg, 1886) 124–6; Geiger, 'Kirchenrecht', 229–30; N. Zeddies, in Signori, 78–85.

authorities (like Bede, or Egbert of York). Penitential books are agreed to have begun in Wales and Ireland, to have spread in the seventh century to England and with the Celtic diaspora to Brittany, and to have gone from all these places to the Germanic parts of the continent in the eighth. There, after an apprenticeship to these insular models, the genre started a new life of its own and culminated just after the year 1000 in the *Corrector* of Bishop Burchard of Worms. By the twelfth century, penitential books were obsolescent, rendered so largely by the rise of moral theology. At the end of that century, as so often happens when an old cultural custom is replaced by another, there at last appeared a book with the actual *title* 'Liber poenitentialis', a book whose content, by contrast, paradoxically announced the new and subtler genre soon to be known as that of the *Summa confessorum*.

Although penitential books existed in the sixth century, surviving manuscripts date only from the seventh. They total about 400.[2] Most are bound into codices with other penitentials, sermons, conciliar acts, and other pastoral writings. The way the books were used must have changed over time. The early Irish penitentials reflect life in monasteries, but also include laity, implying that the monasteries were pastoral centres for a district.[3] By contrast, some English and most Carolingian penitentials are aimed at the prototype parish priest. That does not prove that parish priests used them, or not for long. According to one theory, it was the bishops, not the local priests, who got hold of them, finding the tariffs a convenient arithmetical basis for a disciplinary system based on monetary fines.[4] Many questions about the use of the penitential books remain open. What is nevertheless clear, from beginning to end of the genre, is that its broad intention remained pastoral. The books were meant for priests in ministration to other people. They were outward-looking. Hence the value of their provisions on suicide.

In the penitential books as a whole, the suicide provisions form an almost negligible cluster among literally hundreds of others. Most of the other provisions give rules about penance on a wide range of subject-matter—reminiscent (to readers who know their Old Testament) of the book of Leviticus. Here is a random sample from different books: 'If anyone . . . injures his brother's good name, he shall do penance in silence for one or two days';[5] 'Anyone who drinks liquid in which there is a dead mouse does seven days

[2] Kottje, *Paenit. minora*, p. xi. [3] Frantzen, *Literature*, 36.

[4] The hypothesis of F. Kerff, '*Libri paenitentiales* und kirchliche Strafgerichtsbarkeit bis zum *Decretum Gratiani*. Ein Diskussionsverschlag', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, 106. Kanonistische Abteilung, 75 (Vienna, Cologne, and Graz, 1989), 23–57. Supporting considerations are suggested in my 'Confession before 1215', *Transactions of the Royal Historical Society*, 6th series, 13 (1993), 51–82, esp. 58–60.

[5] The Penitential of Cummean, bk 8, ch. 14, in Bieler, *Irish Penitentials*, 123; quoted here from McNeill and Gamer, *Medieval Handbooks*, 110.

penance'—an example of pollution law not infrequent in this literature.[6] 'If a layman intentionally commits homicide he shall do penance for seven years, three of these on bread and water';[7] 'Those who conjure up storms shall do penance for seven years.'[8] And so on.

Now penance cannot, in the nature of things, be performed for suicide, or not this kind of penance. The guilty party is not there to perform it. That fact, not the usual reticence, can be advanced as the main reason for the rarity of suicide in the penitential books. But the wide range of the books' subject-matter extended to stretching the limits of literary category, and they included matter not strictly penitential, such as disquisitions on human psychology. (Such disquisitions are present in some eighth-century Irish books, which speak of the cardinal sins in the tradition of Latin patristic literature *à la* Gregory the Great's *Moralia*.) Here, the non-repentable character of suicide was no bar to its inclusion. So it occasionally gets in, these books moving already into the purlieus of suicide when they refer to negative dispositions like *tristitia* and *desperatio*, occasionally with, if not a penance attached, then a cure—as when one prescribes 'this vice [of *tristitia*] . . . as a certain wise man says, is healed by the sound of psalms often recited . . .'[9] More important, among the books' generic impurities, is that the tariffs of penances can give way to descriptions of pastoral practice by attesting simply 'This is what we do when . . .' It is in this area of the books that we might expect to find mention of reactions to suicide.

Once more, the expectation is often conspicuously *un*met. But often is not always, and in some dozen of the hundred or so distinct penitential books, suicide is there. To say that the dozen belong to a single tradition is to enter a forest of technical problems, concerning the dating and filiation of the books and of what constitutes a distinct book (rather than a copy of another). One peculiarity of the genre as a whole is its capacity to fuse plagiarism with originality, so that most books are the result of compilation more than of original composition, and this means that the compilers' contribution consisted chiefly in their having chosen what to put in and leave out. This fact, while it has made the books an editor's nightmare, adds to the books' value to the historian since it makes them more sensitive as historical evidence. The practical pastors (as distinct from mere copyists or textual scholars) who compiled them were writing law for their flocks, the forces affecting whose behaviour got reflected in phraseology and choice of text. The reflections may not all be

[6] The Old-Irish Penitential, ch. 1, §4; transl. D. A. Binchy, in Bieler, *Irish Penitentials*, 260.

[7] 'The Roman Penitential', §4; McNeill and Gamer, *Medieval Handbooks*, 302.

[8] 'Bede', bk 6, ch. 14; McNeill and Gamer, *Medieval Handbooks*, 227.

[9] *Paenitentiale quod dicitur Bigotianum*, ch. 3, §2; ed. Bieler, *Irish Penitentials*, 233; cf. 336, index at the word *tristitia*. The wise man may have been the apostle James, cf. James 5: 13: 'Tristatur aliquis vestrum? oret. Aequo animo est? psallat.'

starkly obvious. Indeed they are easy to ignore altogether. Nor were the compilers themselves, to judge from their incoherences, conscious of all the marginal considerations to which they were responding. A comparison of the texts will nevertheless show the nagging presence of those rebel considerations referred to, encamped round the law, always eager for a chance to break in and shape it.

The Judgements of Theodore

To judge from surviving texts, the penitentials' passages on suicide all seem to start from a single source. The earliest extant formulation of the source is in a penitential called *Judicia Theodori*, 'The Judgements of Theodore', or 'Theodore's Penitential'.[10] The 'judgements' purport to be answers to questions put by priests, especially one Eoda 'of blessed memory', to Theodore, the new-broom, Greek-educated archbishop who ruled Canterbury from 668 to 690. Like nearly all other titles of the penitential books, this one is unreliable, but there are grounds dating it to about Theodore's time, perhaps to his circle, in particular to one or more of the 'mass of Irish students' by whom Theodore was said by a late contemporary to have been 'hemmed in'.[11] The main version, which contains the suicide clauses, was recorded by someone who calls himself *Discipulus Umbrensium*, 'Disciple of those [north?] of the Humber', or possibly 'Disciple [of Theodore] from the people [north?] of the Humber', an allusion which would point to the Northumbria of St Cuthbert. A trail of other hints, not necessarily inconsistent with that, meanwhile suggest that Theodore's penitential wisdom had been sought and recorded by Irish priests, who had then dispersed the results in both Ireland and Brittany. Whatever its precise origin, the *Judicia Theodori* almost certainly had some relation, if indirect, with Archbishop Theodore. For brevity's sake, and suspending in this particular the canons of historical accuracy I shall sometimes, in what follows, take the ascription at face value and call the work 'Theodore'.

The suicide clauses come in the second of the two books of the *Judicia Theodori*. This is the book generally concerned less with penances, in a strict

[10] Ed. P. W. Finsterwalder, *Die 'Canones Theodori Cantuariensis' und ihre Überlieferungsformen*. Untersuchungen zu den Bussbüchern des 7., 8. und 9. Jahrhunderts, 1 (Weimar, 1929). Older but usable versions exist in A. W. Haddan and W. Stubbs, *Councils and Ecclesiastical Documents Relating to Great Britain and Ireland*, 3 vols (Oxford, 1869–78; reprint 1965), vol. 3, 197–8; H. J. Schmitz, *Die Bussbücher und die Bussdisziplin der Kirche* (Mainz, 1883), 524–50, on p. 544; and the same author's *Die Bussbücher und das kanonische Bussverfahren* (Düsseldorf, 1898), 543–80, on p. 574. Cf. Vogel, *Libri*, 68; Frantzen, *Libri*, 26–7. Kottje, *Paenit. min.*, p. viii, thought the book could actually have been *by* Theodore, but could not, at that date (1994), have taken into consideration the evidence adduced, in favour of an Irish mediation of Theodore's views, by Professor Charles-Edwards (as in the next note).

[11] Quoted (from Aldhelm of Malmesbury) by T. Charles-Edwards, 'The Penitential of Theodore and the *Iudicia Theodori*', in M. Lapidge, ed., *Archbishop Theodore*, Cambridge Studies in Anglo-Saxon England, 11 (Cambridge, 1995), 141–74, on p. 162.

sense, than with sacerdotal practice. Chapter 10 of Book II is on suicide. The chapter before it has dealt with schismatic Celts, and the chapter after it goes on to distinguish clean and unclean animals (like Leviticus). Between them is the following, in translating which I have kept to the unevenness of the original syntax (while availing myself of the paragraph numbers introduced by a nineteenth-century editor).

X. *De vexatis a diabolo*

10. Of those vexed by the devil

1. If a man is vexed by the devil and can do nothing but run hither and thither, and kills himself from whatever cause, it is permitted that prayers be offered for him if he was previously pious.[12]

2. If because of despair or some fear or for causes unknown we leave this judgement to God and have not dared to pray for him.[13]

3. Whoever shall kill himself of his own will, it is not permitted to perform Masses for him but only to pray and distribute alms.[14]

4. If any Christian shall through sudden temptation take leave of his wits or through insanity kill himself, some priests perform Masses for him.[15]

5. He who suffers from an evil spirit is allowed to possess stones and herbs but without incantation.[16]

These clauses invite comment. Certain of their themes would have a life of their own and will appear at various places later in this book; especially the reference in clause 1 to the religious level of a suicide's previous life, and that in clause 2 to the impenetrability of God's judgement. My comment here will be about the group as a whole. As a group, the five clauses are not coherent, and their incoherences, if we can pause a moment to analyse them, will reveal how Theodore's suicide chapter must have come into existence.

[12] Ed. Finsterwalder, 324: '§1: Si homo vexatus est a diabolo et nescit aliquid nisi ubique discurrere et occidit semet ipsum quacunque causa potest, ut oretur pro eo si ante religiosus erat.' The comma after 'potest' is approved by all modern editors of the *Judicia Theodori* (cf. Haddan and Stubbs, loc. cit.; Schmitz (1883), 544; E. W. H. Wasserschleben, *Die Bussordnungen der abendländischen Kirche* (Halle, 1851), 211. Its absence in the version given in the *Canones Gregorii* (see p. 21, n. 22) may be what led McNeill and Gamer to translate '[if he] slays himself, there may be some reason to pray for him if he was formerly religious'. Among factors urging the English version above is the Stoics' common use of the word *causa* to denote the motive or occasion for suicide.

[13] Ed. Finsterwalder, loc. cit., 324: '§2: Si pro desperatione aut pro timore aliquo aut pro causis incognitis. Deo relinquimus hoc judicium et non ausi sumus orare pro eo.'

[14] Ed. Finsterwalder, ibid.: '§3: Qui se ipsum occiderit propria voluntate missas pro eo facere non licet, sed tantum orare et elemosinas largire.'

[15] Ed. Finsterwalder, ibid.: '§4: Si quis Christianus subita temptatione mente sua exciderit, vel per insaniam se ipsum occiderit, quidam pro eo missas faciunt.'

[16] Ed. Finsterwalder, ibid.: '§5: Demonium sustinenti licet petras et holera habere sine incantatione.'

First, let us notice that the chapter is not primarily about suicide. According to the title it is about persons 'vexed by the Devil'. Clause 5, true to this title, is about persons vexed by the Devil but with no explicit suggestion of suicide, while Clause 1 does mention suicide but only as an accident that can happen to a person vexed by the Devil. These three elements—the title, and clauses 1 and 5—therefore stand on their own. Or rather, they show that the remaining three clauses, 2–4, stand on *their* own. For clauses 2–4 *are* about suicides exclusively, and not at all about demoniacs. The easiest explanation of this difference in character between the two groups of clauses would be to suppose that a primitive version of the chapter was about demoniacs alone and comprised the title and clauses 1 and 5;[17] and that the three inner clauses, numbers 2–4, were added. If so, we should note that they were added not at the end of the original matrix (as they would have been if it had been a question of a logical continuation) but after the single, isolated suicidal element in the original matrix, namely the mention of suicide in clause 1. In other words, the emendator, wishing to add provisions about suicide to a penitential book that said next to nothing about it, saw his opportunity in clause 1 and squeezed in his entire contribution behind it, regardless of the anomalies the emendation imparted to the chapter as a whole.

In the obscure environment in which we are now moving, let us remind ourselves, everything is evidence, including a hypothetical but probable order of procedure. This one suggests something about the psychology in which an attitude to suicide emerged. For if my construction is correct it would imply that, at first, suicide not only lacked a name but was not even a distinct concept. The very *idea* of suicide, that is to say, could only lodge in priests' minds as a complication in the burial of demoniacs. Once lodged, the idea remained, and established itself. When the provision for suicidal *demoniacs* had been allowed, in other words, suicide *tout court* had a niche in the law-books. From that niche, suicide could build up its position and expand its role as specifically suicidal problems arose in practice. We shall find support for this interpretion when we come, in a moment, to look at the subsequent history of the Theodorian clauses and the way they were treated by compilers of later penitentials, all of whom drop clause 5, and nearly all of whom drop the title. That would indicate that, after Theodore, the chapter on demoniacs had made its final metamorphosis from a chapter on demoniacs to a chapter on suicide.

That is the first lesson taught by an analysis of *Judicia Theodori*, Book II,

[17] When Gratian, *Decretum*, pt 2, Causa 26, quaestio 7, ch. 18 (ed. A. Friedberg, *Corpus iuris canonici*, vol. 1, col. 1046) cites Theodore's clause 5 independently he attributes it (following Burchard of Worms and Ivo of Chartres) to Jerome, though with no further details on its provenance. A patristic origin would strengthen the hypothesis that clause 5 was part of the original kernel of this chapter.

Chapter 10. Its incoherences in fact go further and may reveal, in doing so, a second stage in the chapter's prehistory. Let us put the Devil now quite on one side. The clauses strictly about suicide, namely clauses 1–4, are not all phrased in the same way, or with reference to each other. Let us look at them again, keeping a finger in the page with the original text on it (p. 253) to help check where necessary. Clause 1 records a dispensation from a prohibitive law ('it is permitted') which has to wait until clause 3 to be stated ('it is not permitted'). Again, clauses 1 and 3 are couched differently from clauses 2 and 4. The first pair are *pre*scriptive (saying what is permitted and by implication not permitted), where clauses 2 and 4 are *de*scriptive (saying what actually happens). These anomalies again suggest a particular development. Given an original 'demoniac' matrix (comprising the heading and clauses 1 and 5), clause 3 may have been added to remind users what the law was. At that stage the chapter would have a heading and three clauses, namely 1, 3, and 5. Together, these would declare that suicides were denied burial rites (clause 3), but that the privileges of demoniacs (clause 5) included exemption from this rule (clause 1). That skeleton chapter would have served all its purposes but only on the one condition, that a suicide was *either* guilty *or* a demoniac, that is, that the only kind of non-culpable suicide was that of a person possessed by a devil. In time, I suggest, it would be found that this did not fit with observation. For there were other, more down-to-earth, psychological conditions which lessened the guilt of some suicides. You did not have to be a demoniac to be innocent. Since these other conditions had to be accounted for, clauses 2 and 4 were added as a commentary on the others in the light of current practice.

That precise, three-stage reconstruction is not certain. But something like it must be right. Any hypothesis on similar lines would have the crowning recommendation of explaining the third, and most important, set of incoherences in the Theodorean chapter as it stands. If we look again at the four suicide clauses, numbers 1–4, it will be noticed that they fail to agree on a defining boundary for responsible suicide, since they imply different answers to the question 'What excuses a suicide?' Is it demonic possession? Ignorance (if your finger is in the page, look at clause 1 in footnote 12: *nescit aliquid nisi . . .*)? Insanity (clause 4: *per insaniam*)? Sudden temptation and mental 'excess' (clause 4: *subita temptatione mente sua exciderit*)? The same fact can be approached the other way by defining the boundary in terms of guilt. What, in the legislator's mind, makes a suicide culpable? Clause 2 gives a list of motives faintly reminiscent of Stoicism and Roman law (*pro desperatione aut pro timore aliquo*), but the Stoic formula is truncated, and rendered open-ended and therefore useless, by the addition of the last phrase: *aut pro causis incognitis*—for how can 'or for unknown causes' identify guilt? On the other

hand, clause 3 (the one that upholds the ban) attaches guilt simply to the culprit's will, in the phrase *propria voluntate*. The whole series, in short, reads as if the authors were feeling their way from a 'demoniacal' to a 'psychological' understanding of suicide but had got stuck, at various stages, in between.

Concurrently with the faltering efforts of compilers of penitentials, let us remember, ordinary people went on committing suicide and priests had to bury them and decide what to do. The priests had probably known the suicides personally, indeed, if statistics from later in the Middle Ages are any guide, a few of the suicides may have been monks in the same priests' community. What did these priests do? In Theodore, the phrases which answer this question form its fourth set of anomalies, anomalies which drive home the same lesson as before but from a new angle. For the phrases agree in suggesting the priests *wished* to pray for the suicides. This is especially clear in clause 2, which says the priests abstained from praying only because 'we have not dared' or '. . . presumed [*non ausi sumus*]' to pray. That leaves open whether the object of the priests' apprehension was God, or bishops, or public opinion, all of them candidates.[18] Other clauses are consistent with this though not so explicit. Where inconsistencies enter is over the question what it is, precisely, that the priests did not 'dare' to do. For in clause 2, it is that they dare not 'pray' (*orare*) for the suicides. But we are not told what sort of prayer they mean. Clause 3, which affects to state the law, says expressly that while *Mass* is forbidden for culpable suicides, prayer and almsgiving are not. Does the ban refer, then, only to private prayer, and just fail to say how private it has to be? Meanwhile clause 4, after defining non-culpable suicide with masterful imprecision ('through sudden temptation . . . or insanity') surpasses even *that* exemplar of vague drafting when it turns to describe current practice, for all it says on this topic is that '*some* priests say Masses for them.' A fine lot of use, that, in a law-book. Allusions to current practice, in a word, suggest a similarly irregular, piecemeal process of composition to that suggested by the format of the chapter and by its definitions of guilt.

One final point about Theodore's suicide chapter invites observation. I refer to the absence of any mention of the Council of Braga. We recall from Chapter 5 that the Council of Braga sat in 561. Theodore, as we have it, claims to be by an archbishop who ruled from 668 to 690. So there had been time for the news to travel. Yet there is no trace of the Braga suicide canon, nor any sign that it had been adopted, in the entire *Judicia Theodori*, nor is there (for that matter) in any surviving record of English or Irish councils. Furthermore, the Theodorean clause 3, which purports to state the law on suicide, does so in terms subtly different from those of the Braga canon. First, it is conspicu-

[18] 'Ausi simus' is rendered 'ausemus' in one version. Cf. Bieler, *Irish Penitentials*, 27–47 ('Remarks on the Latinity') and n. 23 below.

ously silent on the methods by which people kill themselves, knowing nothing of the man 'who uses a knife, or poison . . .', as in the Braga and Auxerre councils. Second, like the Auxerre canon but unlike that of Braga, Theodore includes the qualification 'voluntarily'. Third, Theodore's ban mentions only Masses, not psalms. Fourth and most important, Theodore explicitly allows *non*-ceremonial prayers for suicides, as well as the distribution of alms. A collation of the Braga, Auxerre, and Theodorean texts thus adds to the value each of them has as evidence on its own. It would back the hypothesis, already implied by I Braga 16, that a ban on Masses for suicides pre-dated Braga, and, if unwritten, would naturally be understood differently by the authors of each text.

I hope the reader has not been rendered breathless by this dense exercise in deduction, from apparently minute editorial differences in the penitential books. We are in a dark age, and for much of it literally no other evidence survives on the pastoral treatment of suicides. Even small variants must have some explanation. The foregoing one, where significant at all, can make decisive inroads into our otherwise almost universal ignorance of priestly thought and practice. The same considerations will dictate our approach to the penitential tradition after Theodore, as we invite the same analytical technique to reveal whether pastoral attitudes to suicide changed, at all, in the centuries from the eighth to the eleventh.

Imitators of Theodore

Despite their inconsistencies, the Theodorean clauses appealed to pastors. I say 'despite' but perhaps that should read 'because'. The Theodorean formulae had explored a clutch of difficult problems, those of personal responsibility, of motive, and of the possible disparities between God's judgement and that of the Church. Practical pastors were impelled by the contingencies of their work to explore these problems, and the authority of St Theodore of Canterbury was a welcome pretext to do so, with the help of formulae written under his name. The *Judicia Theodori* were therefore copied, diffused, imitated, and, not least, quarried. The suicide clauses went most of this way along with the others. A study of how compilers treated them will reveal the kind of pastoral problem to which the clauses promised a solution. It will also help explain why the clauses were dropped from the main canonical tradition.

For the present purpose the Theodorean legacy can be divided into three groups. One consisted, under whatever name, of more or less complete manuscripts of the *Judicia Theodori* (or Theodorean penitential) itself. This literary form had a strong enough momentum to put something called *The Penitential of Theodore* on a list of books which priests were normally

expected to have *c.*900.[19] The other two parts of the legacy are more complicated. One consists of penitentials which set out to reproduce selected sections of the *Judicia Theodori*, and are in that sense 'Theodorean'; the other, of those which used small slices of the Theodorean original, but apparently censored the rest.

Of those collections nearest in overall form to Theodore (the first group), two include a chapter on suicide. They are the *Capitula Dacheriana*,[20] and the *Canones Gregorii*,[21] (The first title means 'D'Achery's chapters' after Luc d'Achery who published a manuscript in 1669; the second 'The Canons of Gregory', in reference to Pope Gregory III (731–41) to whom the collection was implausibly ascribed. Most of the penitentials got their names in one or other of these ways, or by the library or collection they survive in. From now on I hope I can use the accepted titles without explaining them.) The place and date of the composition of the *Dacheriana* and the *Canones Gregorii* are not known for sure, but a consensus favours England within a generation or two of 800. Both works copied Theodore closely but with omissions and amendments, and the amendments, especially, reveal some of the hopes and misgivings of English pastors contemporary with Charlemagne.

First, the *Dacheriana*. 'D'Achery's chapters' number 168, of which suicide occupies numbers 92 and 93. These two suicide chapters lie between women's infanticide and the abandonment of one's monastery (before it), and (after it) priestly fornication and murder by lordly command. In other words, suicide comes in the midst of an apparent miscellany. Amid it we read the following remnants of the Theodorean clauses:

(92) Whoever shall kill himself of his own will, it is not permitted to perform Masses for him.

(93) If any Christian by sudden temptation shall burst the bounds of his mind or by insanity kill himself, some people say Masses.[22]

A comparison with the original Theodorean text on page 253 will show what D'Achery's compiler has done. He has taken clauses 3 and 4, but omitted from clause 3 the admission that private prayer and almsgiving are permitted. His rules for defining non-responsible suicide are also his own, in that he has dropped the demoniacs of the Theodorean clause 1 and of the title, and preferred a formulation based on insanity. Meanwhile, he has kept

[19] Regino of Prüm, *De eccles. discip.*, bk 1, *inquisitio* §95; *Pat. lat.*, 132, 191D: 'Si habent Poenitentiale Romanum, vel a Theodoro episcopo aut a venerabili presbytero Beda editum.'

[20] Ed. Finsterwalder, 239–52 as Document D. Cf. Vogel, *Libri*, 68; Frantzen, *Libri*, 26.

[21] Ed. Finsterwalder, 'Document G', 253–70; pp. 267–8.

[22] Ed. Finsterwalder, 246: [§92] 'Qui se ipsum occiderit propria voluntate missas pro eo facere non licet.' [§93] 'Si quis Christianus subita tentatione mente sua excederit vel per insaniam se ipsum occiderit quidam missas faciunt.'

the disengaged but confusing testimony that 'some priests [*quidam*]' say Masses.

The *Canones Gregorii* give a slightly different message. The 'Canons of Gregory' number 193, of which number 152 is about suicide, this time in a homogeneous context. The canon before suicide concerns Masses for the dead, the canon after, a king's offering of Mass for another king who has died. The whole section is thus about something, namely death. Canon 152 reads:

> If a man is vexed by the Devil and can do nothing but run hither and thither, and it happens that he kill himself, from whatever cause, it is permitted that prayers be said for him if he was previously pious. If because of despair or some fear or for causes unknown to other men let us leave this judgement to God, and we have not dared to pray for him.[23]

The compiler of *Canones Gregorii*, in contrast to the compiler of *Dacheriana*, has chosen the first pair of Theodorean clauses and dropped the second pair, thus putting his non-responsible suicide back into the world of demoniacs. He has also underlined the involuntary character of the demoniac's actions with the addition of a phrase, 'if it happens that [*si contingit ut*]'. Pseudo-Gregory is furthermore keenly aware of the thorniest question that suicide could present to law, namely motive. For he has also added a specification to his model's phrase 'for causes unknown'. The causes (he specifies) are those unknown 'to other men'. That is, he acknowledges that God knows all. By omitting clauses 3 and 4 the *Canones Gregorii* author has also withheld express approval of private prayers, and given no admission that 'some priests' offer Mass for them. That suggests either that these independent-minded priests had vanished by *c.*800, or that the compiler thought the permissiveness and legal confusion of the clause inappropriate, especially (perhaps) in a set of canons attributed to a pope.

Dacheriana and *Canones Gregorii* form the first of these groups of penitentials within the Theodorean suicide legacy. I now turn to the second, which can be entitled that of appreciative borrowers.

Borrowers from Theodore

Of surviving penitential books, composed between the late eighth century and the early eleventh, about a dozen examples contain material palpably drawn from the Theodorean suicide clauses. That they treat the material in different ways is further testimony to the greyness of the moral ground they

[23] Ed. Finsterwalder, 267–8: [§152] 'Si homo vexatur a diabulo et nescit aliquid nisi discurrere ubique et contingit ut occidat semetipsum quacumque causa potest ut oretur pro eo si ante religiosus erat.' [§268] 'si pro desperatione aut pro timore aliquo aut pro causis incognitis aliis hominibus deo relinquamus hoc iudicium et non ausi simus [*another MS*: ausemus] orare pro illo.'

had entered. It was ground on which canonists had reason to hesitate. While revering St Theodore's memory, they picked and chose among his canons, again leaving marks of their preferences in tell-tale variants. True to the genre, none of the penitential books can be strictly classified. But in respect of suicide, I have split Theodore's appreciative borrowers into two further subcategories, broadly the less and the more complete. I take first the subcategory whose borrowing from Theodore went far enough to show their compilers' sympathy with its position, but which in different degrees stop short of taking him whole. Those which stop furthest short are the more revealing, so I shall treat them first.

The earliest of these is known as the Old-Irish Penitential.[24] The original penitential books made in Ireland were written in Latin, but a pastoral impulse projected the genre into the vernacular, at a place and date that we can determine as the monastery of Tallaght, south-west of Dublin, towards the end of the eighth century. Appropriately for an Irish penitential, this one in the Old-Irish language presents its 'sins' not as mere occasions for tariffs, but by psychological description, using the patristic scheme of the seven cardinal sins, with attention to motive. Again true to Latin tradition at the time, the Old-Irish Penitential treats suicide as a manifestation of the sin of anger. Consequently, suicide arrives in the company of lethal offences apparently deriving from anger, like parricide, abortion, and poisoning. Among them we read:

> Anyone who kills himself while insane, prayers are said for him, and alms are given for his soul, if he was previously pious. If anyone has killed himself in despair or for any other cause, he must be left to the judgement of God, for men dare not offer prayers for him—that is Mass—unless it be some other prayer, and almsgiving to the poor and miserable.[25]

This text, let us remember, was in a different language from Theodore. But the Theodorean echo sounds over the language barrier. Comparison with the original reveals four variants. Like the author of *Canones Gregorii*, the Tallaght monk has chosen clauses 1 and 2 of Theodore and omitted most of the rest. Secondly, confident psychologist as he is, the Tallaght monk has nevertheless ejected the Devil from clause 1; where the Theodorean clause 1 speaks of the Devil the Tallaght monk refers only to insanity. Thirdly, the Tallaght monk has inverted the prescriptive and descriptive phrases (phrases which tell people what to do as distinct from describing what they already do). Prayer for the insane suicide has lost authority by becoming *des*criptive, while the need to entrust judgement to God has gained it by becoming *pre*scriptive, a

[24] In D. A. Binchy's translation: cf. Bieler, *Irish Penitentials*, 258–77.
[25] Bk 5, ch. 5; Binchy, in Bieler, *Irish Penitentials*, 272.

'must' (he '*must* be left to the judgement of God'). Lastly, we notice a shift marking out the Tallaght author sharply from that of the *Canones Gregorii*. In dropping clauses 3 and 4, the Tallaght author has clung on to one phrase, the phrase which expressly distinguishes public Mass from private prayer. He declares private prayer permissible for *any* suicide, however deliberate. Indications have already been seen, and more will be seen, of the flexibility precisely of cloistered monks in this respect.[26] The Old-Irish Penitential offers another. Its author, anticipating the eighteenth-century Enlightenment, 'demonizes' suicide.[27] He allows any prayer that does not involve the Church *qua* public body, and says straight out that it is God who has final judgement of a suicide's soul.

Two more penitential books belong in this revealing category. One of the two need not delay us. It is the *Bigotianum*, composed in Francia *c.*800 but with Irish and English spirit and materials.[28] The *Bigotianum* author reproduces, with negligible variants, most of the Theodorean canons on suicide, but cannot bring himself to reproduce them all. The one he omits is the last, with its allusion to the 'certain priests [*quidam*]' who said Mass for suicides when they saw fit. These priests were, after all, in most respects *un*certain. Whatever their other merits, they made bad law.[29] So they were left out.

The last illustration of this sub-category is the most flexible and idiosyncratic. It was a penitential book destined to preserve the spirit of that tradition long after its eclipse elsewhere, because its suicide clause would be included in the influential Pseudo-Isidorean Decretals. The author calls himself 'Benedictus Levita', that is, Benedict the Deacon, and he says he belongs to the church of Mainz, and wrote there. But Benedictus Levita's canons and work methods suggest rather a member of a like-minded circle in or near Rheims, around 850, all of whom followed the practice of interspersing real and invented canons. So Rheims almost certainly comes into his biography somewhere. Benedictus Levita's collection is commonly known also as 'The False Capitularies'.[30]

In Benedictus Levita's False Capitularies, Book II, chapter 70 deals with

[26] I hope to summarize the evidence to this at the end of *The Mapping of Mental Desolation*.

[27] The theme of M. McDonald and T. R. Murphy, *Sleepless Souls, Suicide in Early Modern England* (Oxford, 1990), esp. 109–216. Cf. J. McManners, *Death and the Enlightenment* (Oxford, 1981), 407–15.

[28] Ed. Bieler, *Irish Penitentials*, 20–7; cf. McNeill and Gamer, *Medieval Handbooks*, 148; Vogel, *Libri*, 72; Frantzen, *Libri*, 24.

[29] Ed. Bieler, *Irish Penitentials*, 228; cf. p. 253, nn. 12–16 above. The *Bigotianum* omits 'ubique' in the first sentence and substitutes 'voluntarie' for 'propria voluntate' in §3 of the *Judicia Theodori*.

[30] On Benedictus Levita, see H. Furhmann, *Einfluss und Verbreitung der pseudoisidorischen Fälschungen*. Schriften der Mon. Germ. Hist., vol. 24 (in 3 parts) (Stuttgart, 1972), pt 1, pp. 163–7; and W. Ullmann, *The Growth of Papal Government in the Middle Ages*, 3rd edn (London, 1970), 184–9.

suicide. The author's arrangement of chapters is non-thematic, and this one is flanked by others respectively on church endowment, and on persons guilty of incest or parricide: it looks like another miscellany. Within it, chapter 70 reads:

> Concerning the man who kills himself or hangs himself with a noose. It is considered [proper] that if anyone, from compassion, wishes to give alms, let him do so and make prayer in psalmody. But let there be no oblations or Masses for these people; for the judgements of God are incomprehensible and none can enquire into the depth of his counsel [Romans 11: 33].[31]

Benedictus Levita has not, like his predecessors, taken this or that part of the Theodorean chapter. Rather he has summarized Theodore's chapter in its entirety but employed new words and emphases. Benedictus's main amendments are three. Like the author of the Tallaght Penitential, he has eliminated the Devil. The help the Devil might have given in defining a suicidal act, the author draws instead, not this time from psychology, but from an allusion to method: *qui laqueo se suspendit*—a reminiscence of the Braga canon, which Benedictus quotes, in fact, in a different part of the False Capitularies.[32] Benedictus's second main amendment is to have reduced marginally the authority of the ban on Masses by making the ban, not *pre*scriptive or *des*criptive, but what liturgical experts call 'deprecative' (from *deprecor*: 'I pray for'): his word is *careant*, 'may they do without'. The third and most revealing of Benedictus's changes is his endorsement and extension of those Theodorean expressions which allow private prayer for suicides. The private prayer Benedictus allows is performed out of compassion (*compatiens*); in psalmody (*in psalmodiis*); and, again like the Tallaght *philosophe*, in the light of a divine inscrutability to which Benedictus has silently added the authority of St Paul.

Among appreciative borrowers from the Theodorean chapter, I said those which fell short of completeness are the more revealing. A few, by contrast, quote the entirety of Theodore on suicide, with its inconsistencies unnoticed and unresolved, so that we cannot see where their authors' preferences lie. The earliest in this category is the *Martenianum*, compiled *c.*800, probably near Orleans, but of material from the British Isles.[33] Its copious use of relatively unedited insular material has marked the *Martenianum* out as one of

[31] Benedictus Levita, *Capitularies*, bk 2, ch. 70; *Mon. Germ. Hist., Leges in folio*, vol. 2 (1887), *pars altera* (when this part is bound in one volume with pt 1, its new pagination begins after p. 582), p. 77.33–9: 'De eo, qui semetipsum occidit aut laqueo se suspendit, consideratum est, ut si quis compatiens velit elimosinam dare, tribuat et orationem in psalmodiis faciat. Oblationibus tamen et missis ipsi careant; quia incomprehensibilia sunt judicia Dei et profunditatem consilii ejus nemo potest investigare.' The same text is to be found in *Pat. lat.*, 97, 753D.

[32] Benedictus reproduces the Braga canon ibid., *Additio* 4, §81; loc. cit., 152.3–11; and that of Auxerre, ibid., *Additio* 3, §442, loc. cit., 130.50–4.

[33] Vogel, *Libri paenit.*, 78; Frantzen, *Libri paenit.*, 32.

the penitentials censured by the council of Châlon-sur-Saône in 813, as books 'whose errors are certain, whose authors uncertain'.[34] Whatever else of the Theodorean suicide clauses could survive on the continent, this condemnation suggests, his chapter *en bloc* could not. Only two other penitentials, neither dating from after the ninth century, include all four of the clauses; and at least one of the two does so from, not the philosophy of the Enlightenment this time, but something resembling its Encyclopaedism. Compiled in Germany around the middle of the ninth century, the Penitential to which I refer expands that of Halitgar of Cambrai, and after repeating accurately, from Halitgar, the whole of the Braga suicide canon, gives the four Theodorean clauses. The compiler is oblivious of their mutual inconsistency. Theodore's appeal, in a word, has become archival.[35]

Censors of Theodore: the Devil

Of the original three categories in the Theodorean legacy I have left the longest until last, since it had the longest life. It borrows least from the *Judicia Theodori* and, by its choice and use of what it did borrow, it also proved a Trojan horse for the entire Theodorean tradition, since it eased the suppression of Theodore by the stricter tradition embodied in the Braga canon. Braga, after all, represented the authority of a council, albeit a provincial one; Theodore, even if the ascription to St Theodore were correct, only that of an archbishop. When canon fought canon, this question of authority was the one thing that mattered;[36] and, rather as in the seventh century the Roman date for Easter had edged out its insular alternative at the Synod of Whitby, so now, but far more gradually, we witness the elimination of the Theodorean suicide chapter from official canonical collections.

The gradual but inexorable character of this process is made clear by the fortunes of a third category of Theodore's successors. This third category consists of those penitentials which borrowed only Theodorean clause 1, not always all of that, and added to it only material designed to drive its rigorous point further home. In other words, this last group of books limited non-culpable suicide exclusively to demoniacs. All other suicides were guilty and could not be prayed for. The earliest text in this third group is the influential

[34] Ch. 38; *Mon. Germ. Hist.*, *Legum*, pectio III, *Concilia*, 2: *Concilia aevi Karolini*, 1, pt 1 [ad 743–817], ed. A. Werminghoff (Hanover and Leipzig, 1906), 281, 12–13; 'penitus eliminatis libellis, quos poenitentiales vocant, quorum sunt certi errores, incerti auctores'. Cf. R. McKitterick, *The Frankish Church and the Carolingian Reforms, 789–895* (London, 1977), 60. That the *Martenianum* was among books envisaged is also the view of Vogel and Frantzen, *Libri*, as in the last note.

[35] R. Kottje, *Die Bussbücher Halitgars von Cambrai und des Hrabanus Maurus* (Berlin and New York, 1980), 258.

[36] S. Kuttner, '*Liber canonicus*. A note on "Dictatus Papae" c. 17', in *Studi Gregoriani*, 2 (Rome, 1947), 387–401, esp. 390–7.

Merseburgense Penitential, composed in northern Italy late in the eighth century. The *Merseburgense* quotes the Theodorean clause 1 verbatim, in a miscellany of anti-pollution canons, while omitting the final condition that the demoniac suicide should have been of previously pious life.[37] Again, the *Judicia Clementis*, a Frankish compilation of *c.*800 attributed to Pope Clement I, quotes the same clause 1, likewise paring it down but in another way, by omitting the qualification that the demoniac should 'not know what he is doing'.[38] The so-called *Vallicellanum I* is effectively the same. It quotes an abbreviated form of the Theodorean clause 1, driving its message home with a brutally changed version of clause 2: 'If [the suicide] is from despair or fear, prayer shall not be said for him'.[39] By contrast with these subtractions and additions the penitential known as *Vindobonense A*, compiled from continental models in the late ninth century, reverts to the Theodorean clause 1 roughly as it stands, that is, including its reference to the demoniac's ignorance.[40]

In this third category one element is persistent: the Devil. The third category was to be the one that endured through to the eleventh century, its endurance witnessed by the presence of the same suicide clause in *Vallicellanum II*, a penitential composed in northern Italy as late as *c.*1000. By this date, the rest of the indulgent Theodorean tradition had lost ground to the rigour of the Braga canon. *Vallicellanum II* has little more to say on suicide than to quote the Braga canon word for word, allowing only one small qualification: 'except [it adds] for those overcome by infirmity from demons [*exceptis his, qui per infirmitatem a daemonibus ampiuntur*]'.[41] The author appears to have paraphrased, and tried to explicate, the useful Theodorean dispensation.

A similar if weaker surmise can be made of a second witness to the endurance of clause 1 and its devils: an Anglo-Saxon version of Halitgar's Penitential (the anti-Theodorean book composed by a bishop of Cambrai *c.*830, referred to on p. 263), a version often misleadingly named the *Canons of Edgar*. On suicide, Halitgar had merely repeated the strict Braga canon as it stood. Nearly three centuries after Halitgar wrote, an anonymous English

[37] Ed. R. Kottje, *Paenit. min.*, 160; cf. Vogel, *Libri paenit.*, 77.

[38] Wasserschleben, 434, at canon 12: 'Si quis vexatus est a diabolo et semetipsum occiderit, licet orare pro eo.' Cf. Vogel, *Libri paenit.*, 78; Frantzen, *Libri paenit.*, 33.

[39] Schmitz, *Bussbücher*, (1883), 259 at canon 6: 'Si quis homo vexatus est a diabolo et nescit quid facit et venans se ipsum occidit, licet ut oretur pro eo. Si vero pro desperatione aut pro timore occidit, non oretur pro eo.' Cf. Vogel, *Libri paenit.*, 77; Frantzen, *Libri paenit.*, 32.

[40] Schmitz, *Bussbücher*, (1898), 356, at canon 88: 'Siquis vexatus a diabolo et nesciens semetipsum occiderit, licet orare pro eo.' Cf. Wasserschleben, 418–22, on p. 421 (canon 121 = Poenit. Merseburgense, canon 121 (p. 304). On the Penitential: Vogel, *Libri paenit.*, 75; Frantzen, *Libri paenit.*, 30.

[41] Canon 9; Schmitz, *Bussbücher* (1883), 334; cf. Vogel, *Libri paenit.*, 84; Frantzen, *Libri paenit.*, 38.

writer translated Halitgar into Old English, and made amendments of his own. The English version of Halitgar's suicide canon reads:

> If a man slay himself of his own will with a weapon or with any means the devil offers, it is not allowed that Mass be sung for such a man, or that psalms be chanted when the corpse is committed to the earth, or that it should lie in an unpolluted tomb.[42]

The changes made by the anonymous tenth-century Anglo-Saxon writer can easily be identified. He has insisted, unlike the Braga original, that the suicide be voluntary (*gewealdes*), and has given his own specifications about burial by saying the tomb should not be unpolluted (*claenen*). More important, he has reduced the Braga list of suicidal methods to a 'one plus *etcetera*' formula. The *etcetera* tells the tale: 'or with any means the devil offers [*oðde mid hwylcon deofles onbringe*]'. That could be an echo of the Theodorean suicide chapter. If so, this is the sole vestige of it to survive in its native land.

Whether that particular Anglo-Saxon Devil is Theodorean or not, his presence attests the Devil's inveterate association with suicide. In reconstructing the prehistory of the *Judicia Theodori*, Book II, chapter 16, I proposed that suicide as a moral subject was born within a matrix devoted only to demoniacs, and that from this it was developed by pastors who were growing conscious that moral action had rules of its own, Devil or no. That evolution was to go further. Meanwhile my last category of penitential, the clause-1-only group, has shown how a one-way evolution was not the whole story, since history could also go in the other direction. For on one layer, the third category of Theodorean borrowers has just demonstrated, the Devil kept his place as cause *par excellence* of suicide. The matrix, the original demoniacal clause 1, survived and outlasted the others, and eventually settled down to peaceful coexistence with the Braga canon even after the latter had expelled all other trace of Theodore. The survival of the demoniac clause may be attributed to two qualities. Everyone knew, perhaps without being clearly conscious of the

[42] J. Raith, ed., *Die altenglische Version des Halitgar'schen Bussbuches*, 2nd edn (Darmstadt, 1964), 77: 'Gif man hine sylfne gewealdes ofslyhð mid waepne oðde mid hwylcon deofles onbringe, nis hit na alyfed þaet man for swilene man maessen singe ne mid naenigum saelmsange þaet lic eorðen befaeste ne on claenen byrgene [*another MS*: ne on claenen legere ne licye bebyrged].' Cf. Raith, pp. ix–x, xvii–xix, 73, 76; text also in B. Thorpe, *Ancient Laws and Institutes of England* (London, 1840), vol. 2, pp. 268–9, with Latin translation. On the MS: N. R. Ker, *Catalogue of Manuscripts containing Anglo-Saxon*, 2nd edn (Oxford, 1990), 82–91 (esp. 88), 92–4 (esp. 93). On the profundity and endurance of the confusion of this work with *The Canons of Edgar* (a confusion not yet wholly expunged from the 'Typologie des sources': see Vogel, *Libri paenit.*, 86–7 and Frantzen, *Libri paenit.*, 47), see R. Fowler, ed., *Wulfstan's 'Canons of Edgar'*. Early English Text Society (London, 1972), pp. xlv–xlvi, with further sources and discussion *passim*. Since Fowler dates Wulfstan's 'Canons of Edgar' to 1005–7 (p. xxviii; but cf. p. lxi), and identifies direct borrowings in it from the Old English translation of Halitgar (pp. xlii–xliii), I have assumed that the latter was compiled in the late tenth century.

reason, that the Braga canon was too absolute. It cried out for a dispensation for suicides generally felt to be innocent, yet the dispensation had to be one without doctrinal complications otherwise intolerable. That was what the demoniac clause offered. With it, the only complications would be practical—it being hard to tell just when a particular suicide is innocent on the grounds of its diabolical causation. That problem was for the future. Meanwhile the clause 'except through infirmity caused by the Devil' made a welcome escape route for those who knew some suicides were less than fully voluntary, but could not define why. Among other achievements of the phrase about the Devil was that it helped guarantee the first Theodorean clause its long life, a life continuing after the rest of Theodore was dead. The guarantee was all the firmer because the Devil was at home in this context. Suicide had begun with him, among Theodore's *vexatis a diabolo*. Nor would the association end for many centuries (indeed not until the Enlightenment proper in the eighteenth century), fed as that association was by the unique fusion of mystery and horror that suicide engenders.[43]

The foregoing examination of penitential texts has been designed to find nuances of thought easily ignored. Some of the nuances we have discovered will return in more obvious contexts and call for comment then: the questions of moral responsibility, for instance, and of a suicide's earlier life, and (indeed) the Devil's privileged role. There remains one nuance which deserves immediate notice. It concerns the distinction between the social and individual facets of the act of suicide. Our two previous chapters reviewed theologians' approaches to suicide and revealed that, in the thirteenth century, theologians' access to Aristotle's *Ethics* would teach them, belatedly, to talk about suicide without embarrassment. They could do this because Aristotle, true to character, had pinned his hostility to suicide principally on the damage it did to the *polis*, to society, and Christian divines happily made this argument their own. Our scrutiny of penitentials has revealed an analogue some five centuries earlier. At a period when divines in general were silent on suicide, the penitential books, emanating as they did from priests with pastoral duties, had no choice but to take notice of it. In doing so, in their own idiom, these priests made the same choice. The originators of the penitentials might falter when seeking to define moral responsibility, but when it came to liturgical practice their choice was clear, and rested on the distinction of public and private. They denied, that is, to the deliberate suicide, the benefit, not of all religion, but of specifically public religion. It was as if the supernatural *polis*, like Aristotle's natural equivalent, refused recognition to someone from whom it had suffered so hurtful an insult. But Christian religion, unlike Aristotle's political philosophy, has another dimension. Christianity also

[43] For some actual 'demoniac' suicides: *The Violent against Themselves*, 322–31.

links God directly with the individual. The first authors of the penitentials understood this fact all the better for being involved in the genesis of sacramental confession, and in respect of suicide law they expressed their understanding by drawing attention to those aspects of suicide which lay between its perpetrator and God. No living person, they knew, could be sure of the state of a suicide's soul, as God was sure. Compassion was legitimate, its proper expression, prayer. The Church had been injured, so the prayer could not be public. But prayer did not need to be public. Of course all this was obvious if you had occasion to think about it. What our examination of this evidence has shown is that the Theodorean compilers did think about it, because they had to, and thus left the deposit of their thought in the canons.

Of course there is a contradiction in the Theodorean position. How can we logically deny public prayer to someone whom we say, equally publicly, can be prayed for in private? But canon law distantly reflects deep mysteries, mysteries intractable even to speculative minds with more leisure than lawyers. So too much consistency should not be expected of it, for law cannot, in the very nature of things, escape an element of contradiction even in the hands of its wisest practitioners. This claim is further illustrated by the last document in our early canonical dossier: a letter by another canon lawyer, Nicholas I, pope from 858 to 867.

The reply of Pope Nicholas I to the missionaries in Bulgaria (866)

I refer to Pope Nicholas's reply, written in 866, to questions put by Catholic missionaries in Bulgaria. The missionaries had put to the pope a long string of questions, 105 to be exact, about religious and moral dilemmas.[44] Question 98 concerned suicide. The subject and purport of the question can be deduced from the pope's answer, which I have divided into numbered sections for ease of reference.

1. You have asked [writes the pope] if a person who has killed himself should be buried, or whether the sacrifice [of the Mass] should be offered on his behalf.[45]
2. Certainly he is to be buried, lest the smell offend the living.[46]
3. But he is not to be taken to the graveyard with obsequies in the usual way, so that fear may be struck into other people.[47]

[44] Background: R. Fletcher, *The Conversion of Europe, A.D. 371–1386* (London, 1997), 355–68.

[45] *Mon. Germ. Hist., Epistolae*, vol 6, pp. 568–600; 598.3–4. 'Si sit sepeliendus qui seipsum occidit vel si sit pro eo sacrificium offerendum, requiritis.'

[46] Ibid., lines 4–5; 'Sepeliendus est quidem, ne viventium odoratui molestiam ingerat.'

[47] Ibid., lines 5–6: 'non tamen est, ut aliis pavor incutiatur, solito cum obsequiis more ad sepulchra ferendus.'

4. But if there are those who, from humane zeal, follow him to the grave, let them be seen to be doing good to themselves, rather than to the one who was homicide to himself.[48]
5. For the sacrifice [of the Mass] is not to be offered for the man who was not only a sinner up to the moment of his death, but who brought that moment forward by killing himself.[49]
6. For who commits a greater 'sin unto death'—for whom the apostle John says no prayer should be offered—than the man who, in imitation of Judas, is proven to have been his own homicide under tutelage of the Devil?[50]

Like the other legislation treated so far, Nicholas's rescript comments on an existing situation. But this time the situation is the opposite to that reflected in the Braga and Auxerre canons or in the *Judicia Theodori*. The pagan Bulgarians, to judge from the lack of any hint on the matter in this letter, had no special funeral procedure for suicides, and the Catholic missionaries had written to ask what procedures to introduce. For once the law-maker faced a *tabula rasa*, and this fact helps account for his apparent severity. Nicholas's letter snatches at the available armoury. Suicide, he says, is the sin of Judas, as the Gospel teaches; it is self-homicide, as we learn from St Augustine. Nicholas adds to the armoury an interpretation—which I have not found any earlier—of the unforgiveable sin of John's first Epistle. All that is conspicuously missing is the stigma of despair. Nicholas's *ad hoc*, forensic assemblage of arguments served to justify the introduction to Bulgaria of the practice sanctioned by Braga and by 866, apparently, common in western Christendom. The missionaries, the rescript suggests, were to introduce a new code of funeral practice and were offered these rhetorical accessories to justify it.

The code Nicholas prescribes in this letter is nevertheless not identical to that in I Braga 16. He modifies the spirit of Braga in a Theodorean sense, expressly restricting the extent of the ban. All that Nicholas denies to the suicide is 'obsequies of the usual kind'. But at this point an inconsistency enters. The pope implicitly contradicts himself. He says that *if* some people wish to follow the corpse 'through zeal to be humane' let them be seen to be assisting *themselves* rather than the self-homicide. Let them comfort *themselves* with prayers, if they must, the pope seems to say, as if implying they should not hope the prayers would be answered. But look again. That is not, in fact, quite what the pope is saying. The tell-tale word is *videntur*. Nicholas is urging that

[48] Ibid., lines 6–7: 'sed et, si qui sunt, qui ejus sepulturae studio humanitatis obsequuntur, sibi, non illi, qui sui extitit homicida, praestare videntur.'

[49] Ibid., lines 7–9: 'Sacrificium vero pro eo non est offerendum, qui non solum ad mortem usque peccavit, sed et mortis sibimet interitum propinavit.'

[50] Ibid., lines 9–11: 'Quis enim magis peccatum ad mortem facit pro quo Johannes apostulus dicit non orandum [1 Jo. 5: 16: *Est peccatum ad mortem: non pro illo dico ut roget quis.* Cf. Mt. 27: 5], quam is, qui Judam imitatus sui ipsius homicida fuisse magistro diabolo comprobatur?'

those humane mourners should 'be seen' or 'seem' to be praying exclusively for their own good, as if God was expected to follow the same policy and take no notice of the prayers. In a word, it is again only the public spectacle that matters. Mass is denied to the suicide *ut aliis pavor incutiatur*: 'so that fear may be struck into other people'. Here, if anywhere, is a case of liturgy's being designed with an eye for the onlooking *polis*.

The history of Nicholas I's pontificate marks him out as conspicuously humane. The whole long letter he wrote to the Bulgarian missionaries—from which the above is one of more than a hundred chapters—is itself testimony. The presence of a contradiction in his pronouncement of suicide only attests the more surely to the capacity of suicide to create difficulties, among the exigencies of canon law. Even a pope as sagacious as Nicholas I could not escape. I have quoted Nicholas's rescript here to show the limit of the influence of the *Judicia Theodori*, and of their concessionary policy on praying for suicides. The policy got thus far. For the time being it got no further. Chapter 98 of Nicholas's letter would *not* be among the nine chapters from the same document selected for inclusion in Gratian's *Decretum*. For meanwhile another spirit had gained ground, and this review of canon law will finish by saying a word about it.

The one consistent increment which the Theodorean tradition conferred on that of Braga and Auxerre was its reference to demoniacs. To judge from miracle stories about suicides from the tenth century and later, rehearsed in the previous volume, demoniac suicides were a not uncommon event in the world in which the lawyers lived. This type of suicide appears to have presented pastors with a challenge, which meant that the inclusion of Theodore's demoniac clause was a useful clarification of the simple Braga canon; useful, but relatively long-winded, since all it said, in substance, was that suicides should only be posthumously punished if they had acted with clear free will. We are about to see how that notion entered into the glosses, and after Gratian [*c.*1140], how it invaded the text of the Braga canon itself. Whether that was a result of Theodorean influence can only be guessed at. At the very least, the presence in canonists' libraries of these prestigious English penitentials—prestigious not just because of St Theodore, but through their introduction by St Boniface and other respected missionaries—must have made canonists realize that the Braga text as it stood was not good enough. It still did not correspond to all situations a pastor must confront. In that sense, the English penitentials, even after the whole genre had been disgraced and 'put in Coventry', imparted a detectable shift to the continental tradition.

This is to anticipate. The next part of our story must follow the later fortunes of that small, but uniquely important, element in the medieval inheritance, the Braga canon.

The medieval fortunes of I Braga, c. 16

Well over forty Church councils were held in Gaul and Spain in the Visigothic and Merovingian periods, from the sixth to the eighth centuries. It was normal for their enactments, recorded at the sessions, to be preserved and copied in libraries, and later excerpted for systematic collections.[51] On suicide, the canon most often copied was I Braga 16, and some way behind was Auxerre 17. Both, and above all the Braga canon, were fed in this way into the main current of medieval canon law. Their history teaches a number of lessons, of which the first relates to their diffusion.

Diffusion

The penitential books had their home in the British Isles, and had not entered the Carolingian Church without opposition. The grounds and extent of the opposition are still debated, but it is enough for us to know that in the Council of Chalon-sur-Saône in 813, the bishops' censure of the penitential books weighed on two of their shortcomings: a lack of clear authority, and dubious law.[52] The penitential tradition would win important victories in the Carolingian Church, and would contribute in due course, *inter alia*, to the establishment of sacramental confession. But in the field of substantive law, the Carolingian bishops, whatever their objections to the insular tradition, established a preference for the decisions of councils, records of which were available in some libraries. Consequently, from the middle of the eighth century onwards, conciliar acts were increasingly copied and excerpted for broader circulation.

In this way, the suicide canons of Braga and Auxerre—which it is simplest to go on referring to as 'Braga' and 'Auxerre'—found their way into canonical collections. Once there, they gradually pushed their way forward as the authorities to turn to on suicide, a subject usually dealt with, when at all, at or near the end of each collection[53] (as we saw happen in Abelard's *Sic et non*).[54] The two canons' effect on the Theodorean tradition was slow at first, but, after the exclusion of Theodore from Halitgar's new-broom penitential of *c.*830, it was the conciliar acts, especially Braga, which came increasingly to dominate, appearing sometimes, at first, in the same collections as Theodore, and then alone. Soon after Halitgar's Penitential, for instance, Braga appears alone in the *Capitula* of Rudolf, archbishop of Bourges,[55] and, with a signifi-

[51] J. M. Wallace-Hadrill, *The Frankish Church* (Oxford, 1983), 94: on the twenty interprovincial councils whose acts survive; E. A. Thompson, *The Goths in Spain* (Oxford, 1969), 275, on the fifteen Toledo councils in the seventh century.

[52] Above, p. 263, n. 34. [53] Bayet, *Le suicide*, 407. [54] p. 202 above.

[55] *Mon. Germ. Hist.*, *Capitula episcoporum*, vol. 1, ed. P. Brommer (Hanover, 1984), 360.18 [= *Pat.lat.*, 119, 723A].

cant variant, in those of Herard, archbishop of Tours (*c.*860).[56] Another canonist of that period, Isaac, bishop of Langres (†880), chose Auxerre for his authority on suicide,[57] while, as we have just seen, the wide-ranging Benedictus Levita (*c.*850) included not only his reworking of Theodore, but both Braga and Auxerre (in forms which may even have provided the models for the two last-named episcopal collections).

With this measure of endorsement by Carolingian canonists, the Braga canon was taken up as a matter of course by those of the tenth and eleventh century. Regino of Prüm includes it,[58] as does Burchard of Worms in his *Corrector*.[59] The *Decretum* of Ivo of Chartes, compiled around 1098, includes Braga twice[60] (as also Auxerre, twice,[61] a truncated version of Benedictus Levita,[62] and a long quotation from St Augustine).[63] Not surprisingly, Braga went into the collection which marks the culmination of this phase of canonistic activity, the *Decretum* of Gratian, which from the moment of its completion, around 1140, would become the standard schoolbook for canonists in Bologna and elsewhere.[64]

That Braga was understood as an instruction for priests with cure of souls had been implied by its inclusion in some of the penitential books, of the ninth century and later. Specialists still debate whether those books actually got into the hands of parish priests, but the doubt vanishes, on that score, in the case of the penitential books' successors at the end of the twelfth century, namely the *Summae confessorum*. The Paris philosopher Alan of Lille (†1202), a pioneer in the new genre, included Braga in its prototype, the anachronistically named *Liber poenitentialis* (*c.*1189).[65] Both Auxerre and Braga appear in the handbook of the same name by Robert of Flamborough, written between 1208 and 1213,[66] while Braga, together with a résumé of

[56] Ch. 134 (of 141); *Mon. Germ. Hist., Capit. episc.*, vol. 2, ed. R. Pokorny and M. Stratmann (Hanover, 1995), 156.2–5 [= *Pat. lat.*, 121, 774A]: 'De his, qui sibi quacunque negligentia mortem sibi inferunt, aut pro suis sceleribus puniuntur, nulla pro eis fiat oblatio nec cum psalmis ad sepulturas ducantur.' It may be significant that this clause, besides appearing near the end of Herard's capitularies, is included in only two of its eight manuscripts. Its editors (ibid., n. 404) claim that Herard's inclusion of the ban is 'without parallel' in bishops' capitularies.

[57] *Canones*, titulus 7, ch. 32 (of 33) *Mon. Germ. Hist., Capit. episc.*, vol. 2, 241.3–7 [= *Pat.lat.*, 124, 1110]. The entry appears in seven of the eleven manuscripts of Isaac's canons. Isaac made his compilation probably in the 860s.

[58] *De ecclesiasticis disciplinis*, bk 2, ch. 41; cf. Friedberg, *Corpus iuris canonici*, vol. 1, col. 935.

[59] *Decretum*, bk 19, ch. 130 [*Pat.lat.*, 140, 1009AB]. Cf. Friedberg, vol. 1, col. 935.

[60] Pars 10 [*De homicidiis*], ch. 34 [*Pat.lat.*, 161, 746C], and pars 15 [*De poenitentia*], ch. 140 [ibid., col. 890C].

[61] Pars 15, ch. 6 [col. 693A], and ch. 141 [col. 890D].

[62] Pars 15, ch. 5 [col. 693A]. Cf. p. 262, n. 31 above. Ivo quotes from 'Consideratum est' to 'psalmodiis faciat'.

[63] Pars 15, ch. 4 [cols. 691C–692D], quoting *De civ. Dei*, bk 1, ch. 17.

[64] Pt 2, causa, 23, quaestio 5, ch. 12; = Friedberg, vol. 1, col. 935.

[65] Bk 3, ch. 35, [p. 142].

[66] *Liber poenitentialis*, bk 5, ch. 1; ed. J. J. F. Firth (Toronto, 1971), 211.

Augustine on suicide, is reproduced in Thomas of Chobham's *Summa confessorum*, finished perhaps early in 1216.[67] In Raymond of Peñaforte's *Summa de poenitentia*, compiled a decade or so after that, an obvious paraphrase of Braga appears where Raymond uses suicide as one category to illustrate 'those who have notoriously died in mortal sin'.[68] The wide diffusion of all these handbooks is attested by the number of their surviving manuscripts (over a hundred survive of Thomas of Chobham's manual alone) and by their manifest influence on compilers of later canonical literature. There can be no doubt, then, that the Braga canon, along with other such regular instructions, was widely known to priests with cure of souls in later medieval Europe.

Anomalies in the later history of the canon

From the apparently monotonous history of the Braga canon it would be easy to draw one of two conclusions. Either the canon was a literary curiosity, copied by pedantic compilers, anxious that their manuals be correct but with no expectation that the canon might affect practice (a situation far from unknown). Or it might be concluded that, if the canon was indeed understood and practised, its doctrine was one of unusual simplicity and stubbornness—and indeed that the history of ecclesiastical attitudes to suicide stops there, in 561, with Braga, unmodified over the centuries by any nuance. Evidence from outside canon law will be considered later, and will throw doubt on that simple interpretation. As usual, however, a very careful examination of Braga's own textual history is enough, all on its own, to generate such doubt.

Like the textual history of Theodore, that of Braga contains anomalies barely perceptible, but revealing once perceived. They are of two kinds. One consists of minor misrepresentations or changes which, taken literally, tend to make the canon's effect more severe. Thus that series of summary *Capitula* by Herard of Tours, quoted just now, summarize the suicide law thus:

> Of those who put themselves to death by any form of negligence whatever, or are punished for their crimes, let no offering be made for them and let their bodies not be led to burial with psalms.[69]

Herard has telescoped Braga's methods of suicide ('*per ferrum*, etc.') into a single adverbial expression, *quacumque negligentia*, and by choosing the word 'negligence' for his summary has underlined the absence, in Braga, of any allusion to the question whether the suicide had to be voluntary to be culpable. Braga implied that even to kill yourself by accident deprived you of normal burial. By contrast, Herard's version states that principle explicitly. A

[67] Quaestio 8, ch. 1; ed. F. Broomfield (Louvain and Paris, 1968), 447–8.
[68] Pt I, ch. 16, §2; edn of Rome, 1603, p. 141.
[69] See p. 271 n. 56 above.

second shift of this kind touches the penalties for suicide. A council in Valence in 855, contemporary with Herard, declared that any person killed in a duel was to be treated as a 'homicide of himself' and was therefore to be denied, at his burial, not only 'commemoration' but also 'psalms or prayers'. Now Braga had said nothing of prayers. Their prohibition may be thought implied by the rest, but why did the Valence council spell it out, while Braga had not?[70] Whatever else these irregularities show, they imply a certain negligence in drafting, as if all right-thinking people knew the law anyway. A mere reference to it was enough, doing away with the need for precision.

A second class of variant is more systematic. It is plainest in the Braga text in Gratian's *Decretum*. Gratian's version of Braga begins: 'Placuit, ut hii qui sibi ipsis voluntarie aut per ferrum . . .' A comparison of that phrase with the corresponding Latin, quoted on page 183 n. 59 above, will show that someone has been copying texts inaccurately. Between 561 and *c.*1140 a word has been added to the suicide canon. It is *voluntarie*, 'of his own free will'. This is the opposite of the Valence alteration. Here, in Gratian, the dead person must have died by his own free will. A survey of available texts shows that the change cannot be assigned to any single canonist. It was the work of several collectively, and we can almost see them at work. The Auxerre canon, soon after Braga, had referred twice to the need for volition if a suicide was to be adjudged guilty—which may be why Isaac of Langres preferred Auxerre for his collection, ignoring Braga altogether.[71] In this particular, at least, it was Auxerre that held the future in its hands, since its reference to free will gradually forced its way back into the Braga tradition. Thus when Pope John VIII at a council in Troyes in 878, hunting around for an authority to add posthumous punishments for persons excommunicated for pillaging churches, referred to 'the canons', he merged Braga and Auxerre in a short summary and included an allusion to volition, doubtless taken from Auxerre:

> Of those who put themselves to death *of their own will* [*voluntarie*] and [of those] who are punished for their crimes, the holy canons of the ancient Fathers decreed, under the inspiration of the Holy Spirit, that their bodies should not be taken to burial with hymns and psalms.[72]

[70] Ch. 12; *Mon. Germ. Hist., Legum*, sectio III, *Concilia*, 3: *Concilia aevi Karolini, AD 843–859*, ed. W. Hartmann (Hanover, 1984), 360.8–10 [= Mansi, *Concilia*, 15, 9E–10A]: 'tanquam sui homicida et proprie mortis spontaneus appetitor, dominicae oblationis commemoratione habeatur alienus, nec cadaver, juxta sanctorum canonum decretum, cum *psalmis* vel orationibus *ad sepulturam deducatur*.' The italicized words are in Braga.

[71] Above, p. 271.

[72] J. D. Mansi, *Concilia*, 17, (Venice, 1772), col. 349c: 'Sacri antiquorum patrum canones, de his qui sibi mortem voluntarie inferunt, et qui pro suis sceleribus puniuntur, sancto inspirante Spiritu decreverunt, ut cum hymnis et psalmis eorum corpora non deferantur ad sepulturam.' Cf. Bourquelot, 'Recherches', pt 1, p. 555, n. 2 (with the text); Bayet, *Le suicide*, 409.

Since that text merges the two prototypes, the question remains when and how the single adverb *voluntarie* was smuggled into the older of the two. The smuggler may, possibly, have been Burchard of Worms, the *Patrologia* edition of whose *Corrector* (*c.*1000) includes the newcomer.[73] But *Patrologia* texts—printed somewhat hastily, in the middle of the nineteenth century—are too imperfect to make that evidence conclusive, and only an examination of manuscripts could prove the interpolation of *voluntarie* went back to Burchard's time, let alone Regino's (from whom Burchard often took texts). It certainly went back before that of Ivo of Chartres (*c.*1098). For Ivo's *Decretum* quotes *two* versions of Braga in different parts of his work, and one (not the other) includes the illegal immigrant.[74] One of Ivo's exemplars must already have repeated the new textual tradition, and Ivo does not notice the difference. When the systematic Gratian came to compile his *Concordance of Discordant Canons* (the original title of his *Decretum*) he chose the interpolated version of Braga as the authentic one and made the important decision to omit the other altogether. He does not flag any novelty. Gratian had settled the matter, and later canonists had no means of escape. At the turn of the thirteenth century, Alan of Lille, Thomas of Chobham, Robert of Flamborough, and the others, accepted the interpolation of *voluntarie* without a qualm.[75] The same is true of their modern editors, although the late nineteenth-century editor of Gratian, Friedberg,[76] had noticed the verbal mismatch at this point between Gratian and the original text of Braga.

These thirteenth-century canonists had all the fewer qualms because their profession was already moving beyond the mere addition of an adverb. Just before 1300, the Dominican John of Freiburg, commenting on Braga (as quoted in Raymond of Peñaforte's *Summa*), added a further remark on a suicide's motives. After Braga's old enumeration of methods (ending '. . . or have killed themselves with a sword') John adds that, for a suicide to be guilty it must arise from 'despair, indignation or anger [*desperatio, indignatio vel iracundia*]' as distinct from frenzy or mischance [*secus si ex furore, vel a casu*]'.[77] At long last, in other words, the psychology behind suicide had become more important than the method or the mere fact of death. Motive, long cowering on the margins, had made its triumphal entry.

John of Freiburg, like many other moral theologians of his time, was also a confessor, and wrote for confessors. For a confessor, the possibility of repentance from sin was a central tenet, and this fact helps account for a

[73] *Pat. lat.*, 140, 1009B: 'qui sibi ipsis voluntarie, aut per ferrum . . .' [quoting Braga otherwise correctly].

[74] *Pat. lat.*, 890C (with), 746C (without). Cf. n. 60 above.

[75] See nn. 65–8 above.

[76] Vol. 1, p. 935, n. 270.

[77] John of Freiburg's commentary is printed in the margins of the 1603 edition of Raymond's *Summa de poenitentia*, as in n. 68.

second, less surreptitious, intrusion into the Braga text. Braga had spoken of those who 'die for their crimes'. In Alan of Lille's *Liber poenitentialis* the word *impoenitentes* ('impenitent') is quietly inserted before the final verb '[they] die' ('moriuntur').[78] But this time the new word can be caught in the act of arriving. For a year or two later, the more scrupulous Robert of Flamborough writes, just after the last sentence of the canon: ' "impenitent" *is to be understood*' [my emphasis].[79] This again lets us trace the change to Gratian, who had frankly added the words as a gloss. That the later textual change echoes Gratian's thought is confirmed by a longer note to the same effect in Raymond of Peñaforte's paraphrase of the canon, where Raymond refers to persons who have 'notoriously died in mortal sin', and adds:

> But you should understand all this [as applying] only if no manifest signs of repentance appear at death, such as that [the dying man] asks for a priest, or penance, or makes some other sure sign if perchance he has lost the power of speech.[80]

It will be objected that the Braga canon must, even at the beginning, have meant all this even if it did not say it. It must have aimed its prohibition, that is, only at voluntary suicides, unrepentant *in articulo mortis*. Those twelfth-century canonists would doubtless have agreed. That that was Braga *must* have meant, they would have said. But, as with manuscripts, so with law, *difficilior lectio praeferenda*: 'the more difficult reading is to be preferred.' Braga had not *said* that was what it meant. That the Auxerre canon soon afterwards *did* say so (in respect of volition), and said so twice in a canon of merely four lines, suggests that the importance of the suicide's will was not, at that period, universally understood as a matter of course. Hence the long, awkward campaign to improve the text.

It takes a lot to change the wording of a short, ancient law, and that is true whichever direction the change is in, towards enlarging or restricting the law's effect. In respect of the Braga suicide canon, both tendencies reflect stimuli that impinged on the law from outside. The priests who applied the ban must have raised questions about who was within its reach, having in mind their lay folk, and also, especially as confession was taken more seriously, the logic of moral theology. Gradually, therefore, the canonists' consensus established that guilt and innocence depended on the presence of unrepented intention. That a similar tendency is detectable in religious traditions other than that of the Christian west will, in the last chapter of this volume, add even more strength to this reading.

Even the inherited suicide canon, then, ostensibly a rigid seal, was at the same time wax, bearing imprints from impulses coming from the world around it. It was such impulses that had created the canon in the first place,

[78] As on p. 271, n. 65 above. [79] As in n. 66. [80] As in n. 68.

and others would shape its application. I shall return to these impulses, new and old, and the social matrix in which they originated, in Chapters 11 to 14, whose findings will confirm what we have discovered here. But are we not engaged in painting a landscape by filling in differentiated blocks? That is a methodical business. The next block to be coloured in lies immediately ahead, and concerns the other main medieval written law, the Roman. How did the medieval exponents of this Roman law read—and misread—its provisions on suicide?

Commentary on Roman Law

In Chapter 5 it was explained how Justinian's commission in Byzantium had done its codifying work between 528 and 535. By the time the result was rediscovered and studied some five centuries later, Justinian's collections housed by far the most complete legal synthesis available in western Europe, offering subtle guidance on a long list of social, economic, and political relationships. They offered this guidance, furthermore, at a time when such relationships were on the move, fast enough to expose numerous shortcomings in the Germanic, Celtic, Christian, and other existing legal traditions. The *Corpus iuris civilis* came just at the right time, and was therefore increasingly copied, scrutinized, and glossed. It brought to society as a whole, and especially to those who made its big decisions, new capacities for cohesion and common action. It brought also, to those who did the studying and glossing, and as it were incidentally, an appropriate reward in the currencies of wealth and social standing.

Roman law, I repeat, had by this time long been a ghost. But we have learned not to be afraid of ghosts, which need only to be coaxed into speaking. In the case of medieval Roman law, making the ghost speak is actually less difficult than deciphering its words. For medieval Roman law commentary says almost too much, enough to impart irony to the reflection that Justinian, as I mentioned earlier, had strictly forbidden further commentary after his own collections were complete. The *Digest* had been meant as a commentary to end commentaries, and in no ambition was Justinian less successful. In volume, the output of medieval commentaries exceeds the *Digest* by a factor of at least twenty. As with the thousands of pages of theology, that quantity is more than enough to break the momentum of a historian who tries to search it even for a single theme. So the following exercise will not pretend to be exhaustive, rather the opposite. Its aim will be to discover medieval commentators ready to volunteer views on either, or both, of the two main suicide chapters in Roman law, *Codex*, 9, 5, or *Digest*, 48, 21, with their related texts.

The sample to be used were jurists all of whom wrote after 1250. That reflects the history of the commentary, a history roughly analogous to that of its biblical counterpart, and splitting (like it) into two periods before and after a *Glossa ordinaria*.[81] The *Glossa ordinaria* of Roman law was completed more than a century later than the biblical, that is, about 1250, and was mainly the work of the great Bologna jurist Guilelmus Accursius (†1260). Before Accursius, and as far back as the poorly documented age of Irnerius around 1100, literary interpreters of Roman law are known generically as Glossators. Since their prime concern was the clarification of the Roman text, the Glossators are usually sparing of their own opinions, and altogether silent on their contemporary background. But from Accursius until the middle of the fifteenth century, the main series of interpreters, properly called the Commentators (or sometimes the Postglossators), tend to compare the written law with contemporary views and practices. The historian naturally gravitates to these, rather than their less revealing predecessors. Besides the Postglossators, I have looked at works in the related genres of treatises and *consilia* (written 'counsels' given by learned lawyers to courts).

The total number of jurists in the sample is eight, to which four have been added from the sixteenth century, as occasionally throwing light on earlier law. Three of the medieval eight were French:

Jacques de Révigny (†1296), who taught chiefly in Orleans;
Pierre de Belleperche (†1308), who followed him in Orleans but became chancellor to King Philip IV (and whose name I shall henceforth anglicize as 'Peter');
Jean Boutillier (†*c.*1396), whose *Somme rurale* is highly informative, even though it is less a commentary than a legal handbook by a man thoroughly conversant with Roman law.[82]

The remaining five of my sample were Italian:

Cino of Pistoia (†1336), a pupil of Jacques de Révigny;[83]
Bartolo of Sassoferrato (†1357), the most celebrated of medieval jurists, who wrote his major commentaries in the 1340s and early 1350s;[84]

[81] History in P. Weimar, 'Die legistische Literatur der Glossatorenzeit', in Coing, *Handbuch der Quellen*, 129–260 and N. Horn, 'Die legistische Literatur der Kommentatoren und der Ausbreitung des gelehrten Rechts', ibid., 261–364. Accursius as turning-point: Weimar, 139; Horn, 261–2.

[82] Biographies and literature: Horn, 'Die legistische Literatur', 278–9, 281–2. Editions will be identified in the footnotes. Further bibliography on individuals and all aspects of medieval Roman Law: R. Feenstra, *Droit romain au moyen âge (1000–1500)* [= vol. B, fasc. 10 (Brussels, 1979), of J. Gilissen, ed., *Introduction bibliographique à l'histoire du droit et à l'ethnologie juridique*. Centre d'Histoire et d'Ethnologie juridiques, University of Brussels].

[83] Horn, 'Die legistische Literatur', 269–70, 274.

[84] Horn, 'Die legistische Literatur', 269–70, 274 and *passim*. I have also consulted A. T. Sheedy, *Bartolus on Social Conditions in the Fourteenth Century* (New York, 1942), (although the author says nothing specifically on suicide).

Alberic of Rosciate (†1360);[85]
Baldo de' Ubaldi (†1400), Bartolo's successor in fame, whose *consilia* I have consulted indirectly through a modern monograph;[86]

and finally, three Italian jurists from the fifteenth century:

Pietro de' Ubaldi (†1420), Baldo's nephew, and author of a treatise on burial;
Bartholomeo of Saliceto (†1411), who commented on the Codex; and
Angelo of Arezzo (†1451), whose book *De maleficiis* contains a certain amount of legal information relevant to suicide.[87]

As a preliminary, it will be useful to recall the lesson of Chapter 5, on suicide in late ancient legal thought. Suicide appeared there, it will be recalled, as the point of conflict between two inconsistent ethical systems. In early thirteenth-century Europe, it still was that, but a big change had meanwhile occurred in the law's moral environment, because the balance of power between the ethical systems had changed. The Roman texts remained the same as in the sixth century, still insisting that the act of suicide was innocent, but the jurists who read them, unlike the half-Stoic jurists who had codified them, were now full-scale Christians, living in a society with well over six centuries of explicitly Christian tradition behind it. Medieval Christian lawyers might have preferred to avoid the old suicide texts, as we know theologians had long avoided *their* texts on the subject. But the jurists, too, were affected by the invention of what I called in Chapter 7 the academic threshing-machine. The half-century when they took to commenting on the entire *Corpus iuris civilis* was roughly the same as that which saw the first theological *Summae*, with their penchant for the unearthing of every little question. For the same reason, legal commentators could not, even if they had wished, ignore the suicide texts, any more than they could they cut them out of the *Corpus*. The jurists' problem was actually worse than the theologians'. In the land of theology, classical themes like suicide were like casual foreign immigrants, open to search and disinfection (as we saw happening in the *Policraticus* of John of Salisbury, when he took issue with the otherwise exemplary Greek philosopher Diogenes on the one subject of suicide). In Roman law, by contrast, it was the Stoic conception that was on its literary home ground, while Christianity, now, was the immigrant visitor, exposed to the indignities of search and vaccination. Conceptually, in respect of suicide,

[85] Horn, 'Die legistische Literatur', 270, 272.

[86] Horn, 'Die legistische Literatur', 269–70, 273, 317–18, 328; H. Lange, *Die Consilien des Baldus de Ubaldis († 1400)*. Abhandlungen der geist- und sozialwissenschaftliche Klasse der Akademie der Wissenschaften und der Literatur, Jahrgang 1973, Nr. 12 (Mainz, 1974).

[87] Bartholomeo: Horn, 'Die legistische Literatur', 270, 274; Angelus Aretinus: Engelmann, *Die Schuldlehre der Postglossatoren und ihre Fortentwicklung* (first published in Leipzig, 1895; new edn, Aalen, 1965), 3.

medieval Christian jurists were in hostile territory. So their modern reader must *expect* to find them embarrassed.

He must also expect, if experience is any guide, certain forms the embarrassment might take. First, intrinsic to the commentary itself, a jurist may either betray dissent from his text accidentally, in slips of the tongue, or by wilful misreading of a text; or, with more effect, he may widen conceptual fissures in the law under consideration, even to the extent of turning the law inside out. Our study of Roman law in its own epoch, in Chapter 5, showed what these fissures were. Most were available for a medieval widening exercise, which could make use of such devices as the extension of exceptions, so that the exception came to be seen as normal, or the redistribution of emphases, so that elusive themes in the original become dominant, and vice versa. I referred in Chapter 5 to one important device for this redistribution of emphasis: the 'sliding scale'. Where a subject admits such a sliding scale of interpretations, as distinct from a succession of steps, each generically different from the last, commentators can put progressively greater weight on one principle at the expense of another, so gradually that a change over the generations passes unnoticed. Finally, extrinsic to the commentary though recorded in it, can be signs that both commentator and text, whatever their own tensions or compromises, are in disharmony with contemporary legal reality: that a lawyer locks himself in a library may, very often, be yet another sign of embarrassment at unresolved incoherences in his legal thinking.

In nature, any material in tension, like an archer's bow before he shoots, absorbs contrary forces by distributing them through a whole range of points, each point bearing a small part of the tension. The same happens in law, which often has to accommodate contradictory principles, and can do so by spreading out the contradiction through a series of manageably small portions. This procedure imparts tension to the legal organism as a whole, but saves it from falling apart. Suicide in medieval juristic commentary is just one example of this effect. The devices described in the last paragraph facilitated the creation of a series of points, each of which bore its quantum of the tension between Stoic and Christian. I now hope to illustrate this and begin with the first of the devices, which is a commentator's accidental betrayal of dissent, either by the use of phraseology unjustified by the Roman text or by wilful misreading.

Inappropriate phraseology and wilful misreadings

An example of tell-tale phraseology is the use, about suicide, of the word *delictum*, 'offence', where nothing in the Roman text justifies that. For instance, Cino of Pistoia (*c.*1310) faithfully expounded the suicide chapter in

the *Codex* and duly insisted, as was indeed the case, that his Roman authorities saw suicide as inherently guiltless. But Cino then writes of suicide, in order to distinguish it from an offence against the state or other authority, as a *delictum in se commissum*, 'an offence committed against oneself'. That is, somehow he makes suicide still a *delictum*.[88] The same casual use of that word, inconsistently with the spirit of the Roman text, is found in the same context in the commentary of Bartholomeo da Saliceto. In the course of resisting an eccentric interpreter—who wished to deny altogether that Roman law saw suicide as innocent—Bartholomeo again, as it were accidentally, refers to suicide as a *delictum*.[89] A more overt self-betrayal of the same sort is found in Alberic da Rosciate, commenting *c.*1340 on the same Roman texts on confiscation. Having explained at length why suicide should not be an occasion for a bishop's sequestration of the dead man's possessions, Alberic methodically sums up his whole doctrine of confiscation, and runs through the offences which might conceivably attract it. By mere momentum he comes to the case of an 'offence against oneself' and gives as his example, suicide: 'deliquit circa seipsum, ut se interficiendo'. For Alberic too, then, for all his close acquaintance with Ulpian and Marcus Aurelius, suicide remained at bottom a *delictum*.[90]

For an example of apparent misreading (as distinct from the mere use of a tell-tale word), I turn to an accusation made by Cino of Pistoia against his master, Jacques de Révigny. In one of his lectures Jacques had apparently been considering the effect of a *Novella* of Justinian on the Roman principle with which we are now familiar, that a suicide entailed confiscation if it could be construed as a confession to a certain class of crime. The *Novella* in question eliminated confiscation altogether, except for a single category of offence which it classified as 'the most serious offences'. Jacques de Révigny, in his commentary, had insisted that this did not actually affect the suicide law, and had gone on to explain why not: the accused in question, Jacques had said, had committed *two* offences, whose sum, taken together, *did* amount to the one 'most serious offence' which (as the single above-named exception)

[88] *Commentaria in Codicem*, bk 6, ch. 22, §7; edn of Frankfurt, 1578, fol. 364^{r}, col. b.

[89] *Super Codicem*, bk 9, ch. 50, §§2–4, esp. §4; edn of Jacob Marshall (Lyon, 1515), vol. 2, pt 2, fol. 216^{v}, col. a: 'dixit Ja[cobus] de Ra[vannis] quod non propter unum delictum quod iste videtur commis[s]isse, et sic gravius, puniatur . . . Sed Petrus et co[m]muniter omnes tenent contra, primo quia pro condemnato habetur ut in precedenti questione dixi et ex priori delicto non ex secundo vel utroque, et sic frustra de multiplicatione delictorum arguit.' I have inserted commas after 'commisisse' and 'gravius'.

[90] *De statutis*, quaestio 18, §10; edn. in *Tractatus tractatuum* (Venice, 1584), vol. 2, fol. 57^{r}, col. b: 'Aut deliquit circa seipsum, ut se interficiendo, et tunc bona publicantur per sententiam secundum distinctionem supra positam, non ipso iure'. The last three words quoted illustrate the clear-headedness that Alberic shares with Bartholomeus on the limits of Roman law, while referring constantly, here and variously in the same chapter, to suicide as a *delictum*.

still justified confiscation. Reporting his teacher's view, Cino of Pistoia says this:

> Some jurists [he can only mean Jacques de Révigny but is being diplomatic] have held that the *Novella* in question has no material effect on the law concerning suicide by an accused person. The reason they give is that the man who commits two offences has automatically committed a 'most serious offence'. And the accused, in such a case, has indeed (on this view) committed two offences: the first being the offence of which his suicide is the implicit confession; the second, his suicide. So (they say) the *Novella* makes no difference.[91]

But Cino saw through this misreading. In explaining it, he now identifies the author:

> Jacques de Révigny used to assert this with no further comment, as I once read in a lecture he had composed. But Peter of Belleperche thought otherwise . . . And Peter's position cannot be threatened by the assertion, as in the opinion I have just quoted, that the grounds for confiscation lie in the suicide's having offended twice. For it is not the fact that he has thrown himself from a height, or destroyed himself, for which he is condemned, but for his first offence alone.[92]

In other words, there are *not* two offences because in Roman law suicide *is* no offence. It was undoubtedly Cino who had read the original law more accurately. His restatement of the Roman principle was repeated by later Commentators who, for their own part too, usually attributed the opposite interpretation to Jacques de Révigny and confirmed that it was erroneous. But errors are historically revealing. In an ambience of French law, with its severe suicide penalties, Jacques de Révigny had accidentally read into his Roman text the idea, foreign to it, that suicide is intrinsically criminal.[93]

For all their careful exposition of the Roman law on suicide, therefore, the Commentators can betray *en passant* their own dissent from its dominant principle and try surreptiously to change it. But there were less surreptitious devices for doing this, and devices more effective for opening conceptual fissures in the old law. The most convenient of these made use of what I have called the law's sliding scales.

[91] *Comm. in Cod.*, bk 6, ch. 22, §4; fol. 364^{r}, col. a.

[92] Ibid.; fol. 364r, cols a–b. I have slightly simplified the passage in translation.

[93] Cf. Bartolus de Saxoferrato, *Commentum in digestum novum*, bk 48, tit. 21, §3; *Opera* (Basle, 1562), vol. 5, fol. 925, col. b: 'Ultimo quaero . . . Quidam dicunt quod non, quia iste qui se occidit non fuit damnatus, propterea plus deliquit, commisit enim prius delictum, et postea occidit seipsum . . .' Bartolo does not say who the 'certain people' are but the charge would fit Jacques de Révigny. Alberic, *De statutis*, quaestio 18, §6 [fol. 57ra], and Bartholomeo, *Ad Codicem*, bk 9, ch. 50, *De bonis*, [fol. 216^{v}], follow Cino in attributing the view to Jacques de Révigny.

Pressures on the sliding scale

An example of the jurists' use of the sliding scale appears in Bartolo of Sassoferrato's *Commentary on the Digest*. A question never quite settled by Justinian's law was the question of timing: at what exact *moment* in a legal process could the suicide of the accused be held to constitute an effective confession? In respect of *Digest* 28, 3, 6, Bartolo considers, in particular, the question whether suicide counts as a confession if committed during an appeal. Bartolo quotes Ulpian, who duly distinguishes the motives which may lie behind the act of suicide, and lists those which excuse it. We know them already. They are 'weariness of life, impatience of bodily weakness, and ostentation as in the case of some philosophers'. This last clause, *jactationis, ut quidam philosophi*, had drawn from Accursius, compiler of the *Glossa ordinaria*, nothing more than the allusion 'like Empedocles' (a common example of suicide for philosophical ostentation). Bartolo, a hundred years on, pushes harder at this matter of ostentation. By doing so he succeeds in a nice reinterpretation of Roman law in the sense of Christian theological principles.

> In what does such ostentation consist? [Bartolo asks] I reply: since death is the most fearful of all things the philosophers, by killing themselves, sought to prove themselves courageous and fearful of nothing.

The phraseology betrays that Bartolo had been reading Aristotle's *Nicomachean Ethics* (which we know he did anyway). There, the association of death and courage is made in similar terms; and it causes Bartolo to add a doctrine not found anywhere in Justinian. 'But,' he adds, 'this act [suicide] is *not* virtuous, since for courage to be a virtue it must tend to a proper goal, which this is not.' In other words, Ulpian's excuse for the suicide in question is erroneous. The consequence is, in Bartolo, that the suicide committed during a judicial appeal cannot be thus waved aside. The confiscation (by implication) must stand. Using a principle learned from Aristotle by way of Christian theology, Bartolo has pushed Roman law several inches along the sliding scale in a direction *un*favourable to suicide.

Expansion of exceptions

It was shown at the end of Chapter 5 that Roman law made special provisions for suicide among soldiers and slaves. Since suicide did not, in these contexts, involve confiscation, the provisions in the *Codex* mainly concerned only attempted suicide. They counted attempted suicide by a soldier or slave as threatening damage respectively to military authorities and to the slaves' masters. Here was a fissure that medieval commentators could open more widely,

by extending the application of these special provisions. Nor should we be surprised. Soldiers and slaves had formed discrete, well-defined classes in the ancient Roman West, but between the late Empire and the thirteenth century, the boundaries defining both categories had changed more than once. This change allowed the law for slaves and soldiers to spread more generally if other conditions were favourable. (Other examples of this mechanism are not lacking; for instance, in relation to torture, which Roman law allowed for the interrogation of slaves but which gradually became, on various pretexts, generally applicable in lands where Roman law was influential.)

Here, therefore, was a mechanism by which Justinian could be made to condemn suicide outright, in direct contradiction of the Stoics' intention. The attempted suicide by a soldier, we recall, *was* punishable. Bartolo's *Commentary on the Digest* will be found extending both this principle and its rationale, and extending it without obvious limit. Bartolo's note on the principal text on this subject (in *Digest* 48, 21, 3, 4–6) draws from it the principle that 'he who strikes himself is punished.' Bartolo quietly drops any qualification that this is of merely military application, only applicable to soldiers. Indeed Bartolo goes further, because he moves the basis of his principle from military need to moral delinquency, drawing his reader's attention to the axiom behind it, that 'the man who has not spared himself is much less likely to spare anyone else.' *Nota textus ibi*, writes Bartolo. Here, from the quietest of the Commentators, is a squarely anti-suicidal doctrine which purports to explain a Roman text founded on the opposite assumption.[94] This is what I meant by saying a commentator could turn a law inside out.

We have seen reason to expect that jurists in France, whose law was so rigorous, would in general be readier than those in Italy to invert the Roman rule on suicide. The expectation is met in this instance by Jean Feu, whose career spanned the year 1500, and whose views may therefore have been further sharpened by a rising rate of actual suicides in the world around him.[95] At all events, Jean Feu uses all available devices for inverting the sense of Roman law. In respect of *Digest* 29—which included one of the Roman texts punishing attempted suicide by soldiers—Jean Feu insists that *all* attempted suicide should be punished. He even attacks magistrates who judge otherwise.[96] As for the completed act, Feu employed any text he could lay hands on to render suicide criminal. This meant extending the exceptions. One is the Roman law on slaves, which Feu duly exploits, so that, far from assessing the suicide as

[94] *Comm. in Digestum*, bk 48, tit. 21, §3 (4–6); *Opera* (Lyons, 1504), vol. 3, fol. 205^{v}, col. a: 'Si quis autem'.

[95] See *The Violent against Themselves*, 368–78.

[96] *Commentaria in titulum Sillaniano et Claudiano senatusconsulto. Si sibi manus*, §17; edn of Lyons and Orleans, 1539, fol. 93^{v}.

merely an economic loss to the master, Feu blames the master *for* it, thereby implying *inter alia* that suicide is a wrong independently of its economic consequences.[97] Again, quoting a late Roman text which punishes with special severity the homicide of a clerk, Feu extends the text to cover also the *suicide* of a clerk.[98]

The above group of texts is only a sample. But it is an illustrative sample, the more powerfully so because it fulfils an expectation: that the Commentators approached Roman law on suicide with a prejudice against its Stoic assumption, a prejudice which tended to open the cracks which had already weakened the law in the age of its codification. It can hardly be doubted that further search among the massive medieval commentaries on Roman law would confirm these findings and refine them. Nothing whatever suggests these jurists were untypical. Chapter 12, which will return to these and similar commentaries in respect of the law on attempted suicide, will corroborate this lesson.

The distance between Roman law and judicial practice

Tension between Stoic and Christian views of suicide was expressed, then, within Roman law commentary. But the jurists who wrote the commentaries also betray tension between the law as they define it, on one hand, and judicial practice on the other. In relation to suicide, we keep stumbling into expressions like 'Despite what the written law says, lay judges. . . . (do the opposite)';[99] and 'Whatever the law says, the whole world nevertheless agrees in upholding (the opposite principle)';[100] and so on. Baldo de' Ubaldi's nephew Pietro, for instance, notes how a law in the *Digest* allows the corpses of certain condemned criminals to be moved to a respectable place for burial only by 'authority of the prince', but admits that such corpses are in fact, regardless of that law, generally allowed to be 'buried in the tomb of their ancestors or in the church they have chosen'.[101] Angelo of Arezzo urges punishment for

[97] *Commentaria in titulum Sillaniano et Claudiano senatusconsulto. Si sibi manus*, §4; fol. 92^{v}.

[98] Ibid., §5; fol. 92^{v}.

[99] Jean Boutillier, *Somme rurale*, tit. 'Destre suspeconne de tel cas' [= suicide]; edn of Paris, 1538, fol. 84^{r}.

[100] Albericus de Rosato, *De statutis*, quaestio 18, §13; fol. 57^{rb}: 'Quicquid tamen sit de iure, communiter totus mundus servat, quod bona non publicentur aliquo casu, excepto crimine haeresis . . .'

[101] *De canonica episcopali et parrochiali*, ch. 14, §3; in *Tractatus tractatuum* (Venice, 1484), vol. 22 [also numbered as vol. 15, pt 1], fol. 240^{v}, col. a: 'Item damnatis ad mortem . . . qui non debent sepeliri sine auctoritate principis, consuetudo tamen habet quod sepeliantur in sepultura suorum maiorum, vel in ecclesia in qua elegerit sepeliri, vel in campis, vel etiam in viis publicis.' The law is *Digest*, bk 48, ch. 24, §2, referring to proscripts who die on islands. Cf. p. 278 above. K. A. Geiger, 'Der Selbstmord im französischen Recht', 389, oversimplifies the differences between learned law and practice by equating it with that between law which does, and does not, take account of the defendants' degree of free will. Cf. Ch. 12 below.

attempted murder but admits 'by a general custom of the whole world the laws punishing unconsummated homicide are not fully applied.'[102] We have already considered the tension between theory and judicial practice in respect of suicides' corpses. Even the French jurists Jacques de Révigny and Peter of Belleperche, while condemning suicide as an offence, joined forces against the judicial practice of maltreating suicides' bodies. So did Cino, and a long tradition of Italian jurists, only Angelo of Arezzo managing to find a Roman text which *might* vindicate the maltreatment of criminals' bodies (as a warning to others, that is, and despite the rule (Angelo adds) *Crimen mortalitate extinguitur*). It would be easy to multiply these complaints. Whatever medieval jurists might say of Justinian, they knew they might all—they and Justinian with them—be at odds with the practice of courts. Their public work as judges, counsellors, and teachers tended towards a *rapprochement*, but tension remained. It had to, because it pertained to that taut bow, which held together, across its wide span, elements essentially in mutual opposition.

This review of the medieval canon law on suicide began with an assurance that its asymmetries with Roman law were obvious. It is to be hoped that the review has made them more obvious. The asymmetries lie not only in the matters of chronological trajectory and literary shape, but in respect of the relationship of the written law with the unrecorded world round it. Neither canon nor Roman law, whatever its devotees wished to believe, was really a law unto itself. Neither, that is, was a perfectly self-sufficient and self-consistent system. In respect of suicide, canon law was conspicuously less a law unto itself than was Roman, for a fairly obvious reason: it was canon law's own proper business—as it was to a far lesser extent, only, the business of Roman law—to probe into mysteries of life, beyond the reach of any law. The shortcomings of canon law in this respect were therefore more obvious, and its texts tell us enough of the story to reveal there is more, hidden away in a black hole beyond what the texts reveal. Did the Braga canon not speak as if the law it declared was already in existence? Among texts in this chapter, have not both the penitentials and the letter of Nicholas I picked up a principle all but identical with that of the Braga canon, yet without alluding to it? It is all as if there *was* a law, all right, but an unwritten one. The early medieval written evidence is thus in the strict sense elliptical: something is missing. It was

[102] *De maleficiis*. Tit. 'In Platea communis'; edn of Venice, 1498, fol. 114^{r}: 'quod de generali consuetudine totius mundi est derogatum omnibus legibus punientibus homicidium non consummatum'. (Angelo has been quoting authorities against the punishment of attempted murder. On attempts, see Ch. 12 below). For other examples, Timbal, 'Confiscation', 52; Lange, 16, quoting the declaration of the elders of the Swiss town of Frauenfeld: 'Hört Ihr, Doktor, wir Eidgenossen fragen nit nach dem Bartele und dem Baldele und andere Doktores. Wir haben sonderbare Landgebräuche und Rechte'.

only the bookish canonists of the scholastic period who repeated the Braga canon as if *their* law, for its part, depended on this one written text.

This is what I meant by saying, at the beginning of this chapter, that the fortunes of suicide law cannot be explained by any legal syllogism, because they form a pattern beyond any one legal corpus. And it is in this respect that we can identify, at last, a real symmetry between canon and Roman law, and see the two converging. It was seen that Roman law just could not maintain, even back in Justinian's imperial times, still less in the Middle Ages, its philosophers' radical defence of the legitimacy of suicide. Canon law, for its part, inheriting a law that apparently ignored intention and other psychological factors, supplied these factors and thereafter insisted on them. On the surface, it is as if the two laws mutually attracted each other—canonists persuading civilians that suicide was wrong, while civilians, long aware that intention, a *mens rea*, was of the essence of crime, taught this wisdom to canonists. That is on the surface. Surfaces are not to be ignored, and there is certainly a small modicum of truth in this interpretation. But there is a smaller modicum than there is in a three-dimensional reading which includes, in its vision, not just two systems of learned law, but the ensemble they formed with contiguous disciplines and areas of thought. It is in the ensemble alone that the explanatory configuration can be found.

To find this configuration I have aimed, in these last three chapters, to colour in successively three areas of the ensemble just referred to, grouping the areas together as 'theory' to distinguish them from the practices revealed in the day-to-day practice of courts. These areas represented the main learned traditions passed down in theology and philosophy, and in canon and Roman law. We have not seen the last of them, since a selection of all the evidence reviewed so far from both school and court will be questioned again from a new angle in Chapters 12 to 14. But it is time now, while still in the realm of ostensible theory, to leave the great cities of Jerusalem, Athens and Rome, and explore the area in between; since if law really does gets its impulses across every frontier the search for them must be prepared, as we must be at this point, for cross-country journeys, at times perhaps vertiginous. The next three chapters will accordingly move from the apparently firm ground of the learned disciplines, theological or legal, into a more diffused, less well-disciplined, and therefore less strictly theoretical, plane of thought, a plane shared, this time, between academics and everyone else. For want of a better name I have called it 'occasional' theology.

9

Occasional Theology

Theology is an exact science. Its methods and aims may differ from those of the empirical sciences. But it remains exact in the sense of calling for painstaking accuracy in the formation of its main propositions. Historically, the pains have mostly been taken in the form of debate, centuries long and often agonized before agreement was reached. When agreement was not reached, or reached and lost again, the search for it has still, invariably, called for precision. What can I mean, then, by 'occasional' theology, when there can be no theology at all without the kind of slow method that could make exacting demands? The answer lies in the nature of the present enterprise, which is not theological but historical, and history must take occasional liberties with terms. I have ventured to distinguish a kind of thinking common in medieval culture, but so far anonymous. Many moral or supernatural views have in most ages been expressed in what might today be called 'godspeak', a 'godspeak' sometimes learned and spiritual, sometimes learned but not spiritual, sometimes vice versa, and quite often, even in supposedly religious cultures, neither. The choice of a religious idiom does not automatically mean that thorough, collective critical consideration, extended over many generations, has been given to the views' religious logic, or that they are to be considered as authoritative Christian orthodoxy. A typical field for the practice of occasional theology has been in the identification, among a speaker's own contemporaries, of one human group or status as chiefly responsible for Jesus' Crucifixion and deserving to be punished accordingly.[1]

If that is the intellectual essence of occasional theology, it also has a social peculiarity. It spans most cultural levels. Its 'godspeak', that is to say, reaches up into the less resistant strata of academic theology while touching, simultaneously, the everyday idiom of millions. Necessarily there was some overlap,

[1] I am aware that the distinctions made in this paragraph tread on the historian's most difficult ground—the ground covered with classic perceptiveness by J. H. Newman's, *Essay on the Development of Christian Doctrine*—and can only ask that they be judged in the light of the evidence in this book as a whole.

in that the boundary between occasional and academic theology was in many places ill-marked. But the occasional kind still needs distinguishing as a concept, for many reasons, and one which applies with special force to the subject of suicide, namely that it was in occasional theology that medieval opinions on this topic, in particular, found their natural home. We found academic theology, after all, all but silent on it until a pagan Greek philosopher came to the rescue. Occasional theology had none of this reticence. On the contrary, it was positively outspoken on suicide, and with an accent peculiar to itself, making its voice worth hearing for that reason alone. Equally important, when it is (as here) a whole culture that is under investigation, is the social amphibiousness of this kind of theology: in so far as medieval culture had a *koiné*—a culture common to all conditions—occasional theology reflected it.

These facts have special relevance at the stage reached by the present search for reactions to suicide. The search began at the place where the suicide happened and with the person who found the corpse. There, it was not a question of opinions so much as of actions, performed by people with little or no academic or social pretensions. Only afterwards (in Chapters 3–8) did erudite, articulate doctrine come into consideration. In that doctrine, by contrast, time-honoured ideas on right and wrong were found ricocheting off each other with only an occasional impulse from daily experience. It was a world primarily of theory. Here then, in the two groups of chapters, were two pictures taken on two levels of thought, practice and theory, levels more or less equivalent, socially, to those of uneducated and educated. The mutual relationship of these two levels has always posed, among others, questions in the study of social behaviour, the question how far doctrine dictates behaviour and how far causation runs the other way round. In the medieval Church, occasional theology formed a continuum between those two cultural zones. It was a continuum in which the force of the two contrasting sets of impulses, the more and less consciously rational, can be measured by the naked eye.

The social amphibiousness of occasional theology nevertheless creates a problem of exposition. Being universal, it calls on evidence from starkly different fields, a difference to be illustrated especially by this first, introductory chapter in the group, which will look at attitudes to suicide in two places apparently heterogeneous, both closely defined: one, the greatest work by the greatest medieval poet, written over a decade or more after *c.*1306; the other, a score of casual utterances, made in an instant (and at once probably forgotten), by more ordinary writers, of various periods, around them. The boundaries thus marked out, the other two more substantial chapters in the group—Chapters 10 and 11—will trace the histories of two distinct ideas between the boundaries: one idea historical, one psychological, and both

more or less universal, to be found sometimes in combination while remaining conceptually separate, and both bearing directly on the morality of suicide. The present trio of chapters as a whole, then, with their variety of angles, will reveal how medieval Christians thought *un*officially about the taboo subject—when, that is, they were obliged to think of it at all.

Dante

Canto 13 of Dante's *Inferno*, written between *c.*1307 and *c.*1313, is devoted to a class of sinner he calls 'the violent against themselves'. In the previous volume this canto served both to provide the book's title and, more substantially, as a historical document to reveal what suicides there were in late thirteenth-century Tuscany. *Inferno* 13 now returns with a new purpose: that of revealing the poet's mind. What did he think of suicide, and what does that reveal about his moral system? A re-examination of the canto will, I believe, yield a result by now strangely recognizable.

Dante as theologian

The putting of Dante among 'occasional' theologians may seem an impertinenence. *The Divine Comedy* served many late medieval readers as their introduction to fine points in Catholic theology, and can do the same today. Is it not unfair, therefore, to call his theology 'occasional', and by doing so, turn on him, to his apparent discredit, the device Dante himself used in *The Divine Comedy*, of fixing his characters' status forever by the mere fact of where he placed them? I hasten to defend myself by explaining that 'occasional' is not a pejorative word in this context. To place Dante at this point only restates what all Dante scholars now recognize: that his moral theology does not, as to many scholars it long appeared to, boil down to being a case of 'St Thomas Aquinas set to verse'. Some of the *Comedy* may be that, but far from all; and the formula is misleading. In this as in other ways Dante was original, and for that reason alone 'occasional'.[2]

[2] An accessible introduction to Dante is G. A. Holmes, *Dante* (Past Master Series; Oxford, 1980), and to his milieu, the same author's *Florence, Rome, and the Origins of the Renaissance* (Oxford, 1986), both with bibliographies. The text of *The Divine Comedy* is available with facing English translation and notes by C. S. Singleton, 3 vols (Princeton, NJ, 1970), the Italian text there being substantially that of the now standard edition by G. Petrocchi (Turin, 1966–8). Much the richest treasury of Dante scholarship, complete with the latest editions of his poetry and prose, with extensive bibliographies, is to be found in U. Bosco, G. Petrocchi, and others, eds, *Enciclopedia Dantesca*, 2nd edn, 6 vols. (Rome, 1984), my own particular debts to whose contributors are too many for me fully to acknowledge. The Temple edition of *The Divine Comedy*, ed. H. Oelsner and P. H. Wicksteed, 3 vols (London, 1899; often reprinted until 1958),

To be original does not mean necessarily—and this is to warn against the other extreme—to be a heretic. That is too strong a word, and here, as usual, would carry too much political alloy to serve as a precision instrument in a field where precision is at home. It may be true that one of Dante's books, *Monarchy*, was condemned in the political turmoil after his death, and would stay on the papal index until 1881. It may also be true that the *Comedy* itself, where it touches the same subject-matter as the *Monarchy*, breathes the same spirit, and indeed gives it more provocative expression: all the popes the *Comedy* mentions are in Hell except for St Peter, and for one philosopher-pope put in Heaven under his pre-papal name *qua* philosopher, not as pope;[3] while the niche for heretics in *Inferno* (as if in a mirror image of that) is strikingly bare of any of the scores of heretics ecclesiastically condemned as such, one of whom, for good measure (I refer to Siger of Brabant), is put in *Paradiso*.[4] Besides its peculiar brand of anti-clericalism the *Comedy* has also been found, by modern specialists, to be theologically off-centre in the general direction of philosophical dualism, of the kind sometimes labelled 'Averroism'.[5] So there is a case for not accepting Dante's theology as totally orthodox. Dante's posthumous reputation as 'the Catholic Poet' might indeed have been weaker if he had made his main theological utterance in prose, instead of which, critics were silenced by the literary praise showered on a poem hailed almost at once as a classic. It was true then as later that

> Time that is intolerant
> Of the brave and innocent . . .
> Worships language and forgives
> Everyone by whom it lives.[6]

Further protection for Dante's Catholic reputation was provided in due course by the privileged relationship Florence and its culture enjoyed with the Renaissance papacy, a relationship which became more privileged as the lat-

dated but still unsurpassed in convenience of format and presentation, has convenient schemes of sins punished in Hell in *Inferno*, p. 395 (with a diagramatic cross-section of Hell on p. 25), and in Purgatory, in *Purgatorio*, p. 435. Of longer expositions of Dante's scheme of sins in *Inferno* that of E. Moore, *Studies in Dante*, 2nd series (Oxford, 1899), 152–209, still holds the field for clarity.

[3] *Par.*, 12: 134–5 (Petrus Hispanus, alias John XXI).

[4] *Par.*, 10: 136. The omissions and inclusions of *Inf.* 10 are the subject of my essay 'The Epicureans' (as above, p. 129, n. 17).

[5] B. Nardi, *Saggi di filosofia dantesca*, 2nd edn (Florence, 1967), 40–62. *Saggi sul l'Aristotelismo padovano dal secolo xiv al xvi* (Florence, 1958), 30–5; E. Gilson, *Dante et la philosophie* (Paris, 1939; trans. D. Moore, *Dante the Philosopher*, London, 1948). Cf. K. Foster, 'St Thomas and Dante', in the same author's collected essays, *The Two Dantes and Other Studies* (London, 1977), 56–65, esp. 56–7. 'Averroism': F. Van Steenberghen, *La philosophie au xiii^e siècle* (Louvain, 1966), 362–73, 394–402.

[6] W. H. Auden, 'In Memory of W. B. Yeats', *Collected Shorter Poems, 1930–1944* (London, 1959), 66.

ter's older political supporters (like France and Germany) disengaged themselves and left Florence as the papacy's best friend.

Dante's title as 'the Catholic Poet' should therefore not recommend his theology as thoroughly normal. It is best to call it, not heretical, but idiosyncratic. It could hardly help being idiosyncratic, since Dante had come to theology by a route of his own, having probably attended lay adult-education classes with friars and then gone on to learn his philosophy proper in Bologna, which had no theology faculty before 1360 and where philosophy had been taught mainly by laymen and medics.[7] At the higher levels of his learning, Dante's specifically theological formation was therefore weak. Instead, he was outstandingly perceptive, distinctly well-read (if less than the *Comedy*'s phraseology sometimes suggests),[8] and passionately engaged in his own political-religious ideological programme. If he forged his own theological synthesis it was because he had no choice. Big imports went into the synthesis from contemporary and ancient learning but it remained his own—his rare lucidity of expression being just one result.

For all these reasons, then, and whether for better or worse, Dante belongs here, and not in Chapter 7 among the theologians. That said, what did he think of suicide? Before tackling the question in a larger sense it will be worth pausing for a moment to consider it in a narrower one: *did* Dante ever think of suicide, for himself? He reveals that a personal crisis had hit him at the age of 35 and become the occasion (according to *Inferno*, 1: 1–12) of the entire journey recorded in the *Comedy*. The little we know of the crisis does not rule out that Dante may have thought of suicide to the degree, say, of Hamlet's 'to be, or not to be' speech. Listen again to that shudder of horror in the opening lines of *Inferno* as the poet remembers what he has been through: 'The very thought renews the fear [he writes]; so bitter is it, that death is little more.'[9] Later allusions give the same impression. Once, in *Purgatorio*, the poet's imaginary guide Virgil explains that 'this man [Dante] has never seen his last evening but in his madness [*follia*] was so close to it that there was very little time to turn back';[10] as if Dante had been both on the very brink of death and it was his own self-reliant imprudence (*follia*) that brought him there. There

[7] H. Rashdell, *The Universities of the Middle Ages*, new edn, ed. F. M. Powicke and A. B. Emden (Oxford, 1936), vol. 1, 250–1; K. Foster, 'Tommaso d'Aquino', *Enc. Dant.*, 5, 626–49, esp. 632b; and M. Corti, *Dante a un nuovo crocevia* (Florence, 1982), 9–37, 77–101.

[8] Compare (for instance) *Inf.*, 11: 80 'la tua Etica', and 101–2: 'e se tu ben la tua Fisica note, / tu troverai non dopo molte carte,' with the late Kenelm Foster's demonstration that Dante knew Aristotle's *Ethics* and *Physics* only through the expository works of Aquinas; Foster, *The Two Dantes*, 61–2, and his entry 'Tommaso d'Aquino' (as in last note), esp. 633–4.

[9] *Inf.*, 1: 4–7: 'Ahi quanto a dir qual era è cosa dura / esta selva selvaggia e aspra e forte / che nel pensier rinova la paura! / Tant'è amara che poco è più morte.'

[10] *Purg.*, 1: 58–60: 'Questi non vide mai l'ultima sera; / ma per la sua follia le fu sì presso, / che molto poco tempo a volger era.'

are several such hints,[11] nor, we know, was Hamlet's sense of agonizing indecision foreign to Dante, who more than once in the *Comedy* portrays his fictional *persona* as paralysed by dilemmas, with a verisimilitude suggesting first-hand knowledge.[12] A famous modern essay entitled 'The Two Dantes' convincingly portrays the poet's progress from one self to another.[13] That progress was gradual, and gave 'the two Dantes' plenty of years to coexist in the same person, pulling him in two.[14]

Whatever hypotheses we venture about Dante's own psychological experiences, his capacity to think two things at once extended, on a longer-term basis, to a whole range of philosophical and political subjects. These included moral philosophy, where any tendency Dante may have suffered towards a split personality found ample encouragement. Dante was heir to a tradition, as old as Christian culture, which bound thinkers to try to conceive the classical and Christian inheritances as a single unity. 'Try' only, it had to be, because, however much value a Christian scholar put on his favourite ancients—like Plato, Aristotle, Seneca, or Virgil—the brute fact remained that they were not Christians, and only Christians could be saved. This brute fact could be bypassed but not removed. It *was* bypassed, very often, by a conspiracy among authors and readers to ignore certain questions, like why Roman Emperors had slaughtered Christians, and to nourish certain myths, such as that Trajan had gone to Heaven because a Christian widow had prayed for him. But this conspiracy did not remove the brute fact that paganism and Christianity were different. The more consistently any thinker engaged himself with the two streams of his inheritance the more deeply their tension affected him.

Dante was not only heir to this tradition, but became its most distinguished example. No one, that is to say, ever engaged himself more thoroughly or more fruitfully than Dante did in the two halves of the tradition, whose tension, as a result, runs right through *The Divine Comedy*. Like the other writers before him, he tried to bypass the tension by ignoring questions and nourishing myths, and he also made major concessions—the main one being that most of Dante's pre-Christian authorities were denied salvation, even painfully; and who knows whether after another 'to be or not to be' dilemma?—his beloved Virgil. Instead, Dante produced a myth of his own by

[11] e.g. the *disperata* sonnet *Lo doloroso amor* (quoted with a translation by Holmes, *Florence*, 113–14).

[12] e.g. *Inf.*, 2: 37–42; also 9: 14–15; 17: 76–93; 8: 110–11; and (a recognition of the advantages of doubt) 11: 93.

[13] In the collection of that name by K. Foster, 156–253.

[14] I am reassured to find the above speculation is shared, if with a degree more hesitation, by another student of Dante's views on suicide, D. Rolfs, 'Dante, Petrarch, Boccaccio and the problem of suicide', *Romanic Review*, 67 (1976), 200–25, on p. 207.

creating for all these great authors, a just tolerable Limbo on the edge of Hell: a *proxime acessit* to salvation whose inmates' only penalty was to gaze eternally on the truth, knowing they could never reach it.

Dante's measures to bypass or reduce the pagan–Christian tension in his thought were plausible and struck a sympathetic chord in his readership—not least because the measures reinforced the most exposed flank of their own common orthodoxy: all agreed that pagans as such, however regrettably, could not be saved. But in Dante all these measures were palliative, not remedial. The tension remained, like a shake running right up and down a trunk of oak. Dante—in this probably like many of his readers—felt in his bones, and would have denied his inmost beliefs if he had declared otherwise, that the greatest classical authors had lessons to teach as valid as Christian scripture. Or did he mean *almost* as valid? If it is sometimes hard to answer that question it is because Dante did not always know how to answer it himself. Like plenty of other radical Aristotelian philosophers of his time (the Bologna philosophy teachers among them) Dante saw Aristotle as 'the master of human reason',[15] since Aristotle had understood all that the human mind *could* understand. As for Virgil, he rated even higher, not only because Virgil's Fourth Eclogue had foretold Christ's birth but because the *Aeneid*, with its revelation of a divine plan for the mission of the Roman Empire, deserved a reverence next only to that earned by a Christian prophet.[16] These pagan writers, on one hand, and the puzzling if indisputably divine utterances of Scripture and the Church Fathers on the other, formed rival loyalties for the author of the *Inferno*. One mark of his endeavour to balance them is his choice of examples equally from secular and sacred history—like Brutus and Judas together in *Inferno* 34.

The philosophical dilemmas engendered by this double allegiance reached

[15] *Convivio*, bk 4, ch. 6, §8: 'E a vedere come Aristotile è maestro e duca de la ragione umana'. Foster, following Gilson (*Philosophie*, 144–51), reads this as applying especially to ethics; *The Two Dantes*, 168.

[16] See, for instance, *Inf.* 1, 83–4: 'vagliami 'l lungo studio e 'l grande amore / che m'ha fatto cercar lo tuo volume [= the *Aeneid*]'. E. Moore, *Studies in Dante, 1st Series* (Oxford, 1896), 166–97, identifies some 200 implicit or explicit tributes to Virgil in Dante's works, and judges (p. 167) that Dante sometimes (especially in *De Monarchia*) quotes the *Aeneid* 'like a Scripture text.' Although J. H. Whitfield, *Dante and Virgil* (Oxford, 1949), 73–4, objects that the overwhelming majority of Dante's Virgilian echoes are in *Inferno* and *Purgatorio* (mainly the former) and, within the *Inferno*, above all—as to 80%—in Cantos 1–6 (a circumstance which confirms Virgil's claim to have given its first impetus to the writing of the *Comedy*), he rightly admits that Virgil's political ideology earns him, from Dante, a homage far exceeding the bounds of one work. For the judgement that Dante treats the *Aeneid* 'almost as Scripture', see also B. Nardi, 'Fortuna della Monarchia nei secoli XIV e XV,' in that author's *Nel mondo di Dante* (Rome, 1944), 163–205, esp. 204–5; C. T. Davis, *Dante and the Idea of Rome* (Oxford, 1957), 100–38 (quoting Nardi); and idem, 'Dante's Vision of History', in that author's collected essays, *Dante's Italy* (Philadelphia, 1984), 23–41, esp. 25–7, where Davis quotes both Moore and Nardi and adds his own corroboration.

their sharpest intensity in respect of suicide. Even without the special problems arising from the character and split allegiances of a particular poet, the maverick nature of suicide tends to upset moral and legal systems. That tendency must grow to almost a compulsion in the presence of a determined attempt, as in Dante, to balance Christian and pagan-Roman moral systems. Repeatedly, we have seen how the most articulate classical ethics, transmitted through Seneca and Cicero, were comfortably digested by Christian moralists with this one exception, an exception rendered all the starker by the consonance of the two traditions elsewhere, and therefore standing to the rest of the tradition like a stone in a loaf of bread. Stoics allowed suicide, Christianity condemned it. No medieval admirer of the classics could escape this potential stumbling-block, and since Dante was more vulnerable than others (because of his double allegiance), his doctrines on suicide were bound to suffer.

Readers familiar with *The Divine Comedy* may find all this surprising, and say that on suicide, of all matters, the text of the *Inferno* proves there was was only *one* Dante. He put suicides decisively in Canto 13 and added punishments grim enough (we shall come to them) to leave no doubt of his loyalty to St Augustine's condemnation of suicide. If any question has a simple answer, they may say, this must surely be it. The following pages will aim to show it is not, that is, that the answer is very far from simple and that the attitudes *The Divine Comedy* betrays on this subject show that here, as on many related fronts, its author was split in two.

Violence as a kind of malice

Before scrutinizing Canto 13 in detail let us look briefly at its context, to learn the criteria on which Dante judged sins in general and so discover what kind of sin he thought suicide to be. As a wayfarer through the underworld[17] Dante had first heard tell of the 'violent against themselves' in *Inferno* 11, two cantos before he met them. By that point, the wayfarer Dante and his guide, Virgil, had long passed the old philosophers and poets of Limbo and were about to enter the Seventh Circle of Hell. (For any modern reader unacquainted with the poem: Hell is conceived as an upside-down cone terraced into 'circles', some of them subdivided into subsidiary rings or *gironi*.) From the circles below the two wayfarers at this point, there rises a stench so powerful that both agree to wait until their nostrils get used to it, and Virgil offers to fill in the time by explaining how the sins that earn Hell are related to each other.[18]

[17] This or a similar expression will be used when the characters of Dante or Virgil, in the *Comedy*, need distinguishing from their flesh-and-blood counterparts.

[18] *Inf.*, 11: 22–111.

The eighty-nine lines that follow form one of two long explanations in the *Comedy* of the sins punishable in the afterlife. Since the other passage, in *Purgatorio* 17,[19] was based on the scheme of Seven Cardinal Sins, a scheme by then a commonplace of contemporary moral theology, it created few anomalies not already familiar in the universities. The scheme in *Inferno* 11, by contrast, is Dante's own, and bears clear footprints of his thought and working method. The poet's imagined guide, Virgil, begins the exposition with the sins punished *below* the place where he and his pupil stand, that is, from the seventh circle downwards to the ninth and last. Everyone in this lower part of Hell (Virgil says) was guilty of *malizia* (malice). The goal of *malizia* is *ingiuria*, a word phonetically ancestor to our English 'injury' but with a meaning in Dante's time closer to 'injustice'. (That development is one of many examples of the narrowing and materialization of an abstract medieval concept, and we shall see others.)[20] The *malizia* that draws people to the lower Hell is divided into two categories, of which the less hateful is violence, alias force (in this passage the two words *forza* and *violenza* are used as synonyms). The other category is fraud (*frode*), which is more 'hateful to God' because it represents an abuse of reason, the attribute distinguishing man from beasts.

When Virgil has finished his outline plan of *malizia*, the wayfarers' nostrils are still not accustomed to the stench from below, so Dante asks the guide to explain, in view of what has just been said, why the souls *above* them in Hell should be punished. Virgil replies with unaccustomed sharpness: 'What can have happened to your common sense?'[21] He goes on refer his fellow wayfarer to Aristotle's *Ethics*, where he will find a threefold distinction of sins into those of incontinence, malice, and mad bestiality. Sins of incontinence, Virgil explains, incur less blame,[22] and it is appropriately these whose punishment occupies the less severe regions of Hell above the two travellers.

This long, often discussed, passage in *Inferno* 11 contains several anomalies. If they are easy to miss, that is partly because it was the poet's intention that they should be: it belongs to a rhetorician's art to conceal anomalies in his logic. Of these anomalies I shall point out three. The first relates to the place where the passage comes in *Inferno*. The reader has already passed

[19] *Purg.*, 17: 73–139.

[20] Cf. Moore, *Studies*, 2nd series, 159 n. 3, regretting the 'inconvenient modern restriction' on the terms 'incontinence', 'temperance', 'passion', 'appetite', 'immorality', and 'many more'.

[21] *Inf.*, 11, 76–8.

[22] *Inf.*, 11: 79–84: 'Non ti rimembra di quelle parole / con le quai la tua Etica pertratta / le tre disposizion ch 'l ciel non vole, / incontenenza, malizia e la matta / bestialitade? e come incontenenza / men Dio offende e men biasimo accatta?' Cf. *Nic. Eth.*, bk 7, ch. 1 §1, which speaks of *kakia* (wickedness), *akrasia* (incontinence), and *thērotēs* (bestiality), words rendered in William of Moerbeke's translation (used in Aquinas's *Expositio*, where Dante had almost certainly read them) as *malitia*, *incontinentia*, and *bestialitas*.

through six of its nine circles before learning why a soul is assigned to one or other circle. Dante (the poet) pretends this lateness is an accident occasioned by the stench of lower Hell, but behind the pretence there may be a less elegant reason, namely that as Dante worked through the *Inferno* he had only just realized his need for a proper moral map. The idea is not inherently unlikely, and of a number of grounds for entertaining it a principal one is that Dante probably broke off composition at the end of Canto 7 to resume it after a pause. (He begins Canto 8 with the ingeniously nonchalant opening, 'To continue . . . ', when there may have been months or even years between his writing of that and of the previous canto.)[23] Dante had almost certainly taken his original inspiration for an underworld journey from *Aeneid* 6, an origin reflected in the density of echoes from that work in Cantos 1 to 6, a density greater than Dante would ever employ again in the *Comedy* or anywhere else.[24] But the *Aeneid* does not systematically classify sins, and to 'baptize' it for his current purpose Dante must have realized, perhaps long after starting the *Inferno*, that he had to supply this need. To do so he ingeniously put the result into the mouth of the very man, as imaginary spirit, who had failed, as a flesh-and-blood classical poet, to supply a classification in the first place. Attempts have been made to argue that Dante conceived a plan for the *Inferno* based on the Seven Cardinal Sins; but if he did, that only proves the point that he began without thinking any plan through. For he had used up four of the seven sins by the end of Canto 8, with twenty-six more cantos still to come.[25] The sin scheme of *Inferno* 11, in a word, comes late in the poem because the poet was late in acknowledging he had to have one at all.

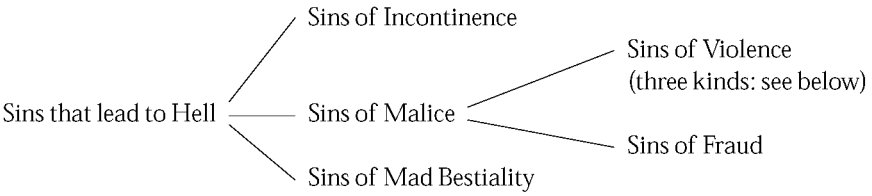
That is one anomaly in the sin scheme in *Inferno* 11. A second is the inconsistency of that scheme with what actually happens. Whether we count the retrospective part of the sin scheme—about 'incontinence', punished above the two travellers in *Inferno* 11—as accurate depends on whether we agree that all the sins above the two wayfarers in Hell are, in actual fact, sins of incontinence (meaning a failure to restrain one's natural appetites); a question highly debatable even if we ignore the 'Heretics' of Canto 10 (they were certainly not incontinent, whatever they were). But there is no need to enter

[23] Cf. especially the disparity between *Inf.*, 6: 50–73 and *Inf.*, 10: 100. Other reasons: Moore, *Studies*, 2nd series, 167–72. That Dante was to put the corresponding sin classification in *Purgatorio* late in that cantica, too (*Purg.*, 17: 85–139) fails to weaken the argument that in *Inferno*, at least, the lateness of its analogue was due to improvidence. The improvidence argument rests on too many accessory considerations to be dislodged by that parallel, which may, indeed, have been suggested to Dante by the earlier example, whose origin it may even have been designed to blur.

[24] Whitfield, *Dante and Virgil*, 74; cf. Maurer (see n. 34 below), 319.

[25] Observed by Moore, *Studies*, 2nd series, 168–9, as part of his case that Dante could not have preconceived a plan for the *Inferno* based on the Seven Sins, since there were still 26 cantos to fill.

that retrospective debate. To prove the inaccuracy of *Inferno* 11 it is enough to establish that its sin scheme *below* the two travellers does not fit. Virgil's promise is not fulfilled. Hell is not, it turns out, constructed as he describes it. Our fault-finding exercise can begin with an outline map of Virgil's Hell. It looks like this:



The problem lies with the last item, Mad Bestiality. Critics have searched later in the *Inferno* for any fulfilment of Virgil's undertaking to illustrate Mad Bestiality and have suggested examples, but their efforts have succeeded only in betraying the strength of their own assumption that Dante was consistent. Students of ethical systems will know that this is an unlikely assumption anyway: no one else, then or later, has, to general satisfaction, worked out a consistent ethical system, so how should Dante have done so? And in this case the assumption is demonstrably wrong since the *Inferno* leaves no *room* for Mad Bestiality. The lowest part of the lowest circle of Dante's Hell (in Canto 34) is occupied not by Bestial Madmen but by Traitors Against Their Masters or Benefactors, who represent the worst subdivision of the worst kind of *malizia* (fraud). Dante had filled up all his preplanned 34 cantos, in other words, and found no corner left for a category of sinner he had originally envisaged (or pretended to have envisaged) as deserving one.[26]

The foregoing analysis is far from original, but it deserves re-endorsement here to familiarize us with the presence of fissures in Dante's moral doctrine, and with their principal source, Dante's eclectic method. The first of the distinctions just quoted, between the violent and deceitful kinds of *malizia*, is known to have been lifted straight from Cicero, who says in *De officiis* that 'injury (*injuria*) is done either through force (*vi*) or through fraud, and . . . fraud is the more hateful,'[27] a distinction not found in any extant pre-Ciceronian work. Something similar is true of the second distinction, between sins of Incontinence, Malice, and Mad Bestiality. This threefold division Dante found in Aristotle's *Nicomachean Ethics*, or rather (despite the poet's pretence at direct knowledge of the *Ethics*) in Aquinas's 'readings' on

[26] Moore, *Studies*, 2nd series, 161.

[27] Cicero, *De off.*, bk 1, §41 (ch. 13): 'Cum autem duobus modis, id est aut vi aut fraude, fiat iniuria, fraus quasi vulpeculae, vis leonis videtur; utrumque homine alienissimum, sed fraus odio digna maiore.' Cf. *Inf.*, 27: 75 for Dante's use of Cicero's lion and fox; Moore, *Studies*, 2nd series, 158.

William of Moerbeke's translation of that work. What Dante has done, in Canto 11, is combine the two quite separate notions, respectively from Cicero and Aristotle, and added his own rationale. Part of that added rationale is to join up Cicero's *iniuria* to Aristotle's *malitia*, a manoeuvre which lodges the result, *malitia-iniuria*, in the middle of Aristotle's trio, to produce the scheme illustrated in the diagram above. But there was one problem. When busy writing the poem, Dante forgot to leave room for the last item in his catalogue, so he missed it out. None of this constitutes an attack on Dante. It is wonderful that he wrote the *Comedy* at all; we cannot have everything. What it *does* constitute is a reason to be on the lookout for a fissure when we come to his view of the moral subject on which—as we have seen, on other grounds—he was most vulnerable.

There were to be three anomalies in the sin scheme of Canto 11, and that was the second. The third shows how the other two relate to suicide. If read carefully, the scheme in *Inferno* 11 specifically *excludes* suicides from Hell altogether. In defining malice, Dante's Virgil says the aim of malice, namely *ingiuria,* is that which in one way or another 'brings pain to another'.[28] To *another*: *altrui*. By using the word *altrui,* Dante has insouciantly laid a trap for himself, two cantos before he gets to the suicides. He might, it is true, have included suicide even *after* saying *ingiuria* has to hurt *altrui*, by emphasizing the antisocial aspect of suicide as taught by the scholastics who drew on Aristotle's doctrine that suicide hurt society.[29] But Dante does not adopt that argument, which alone could have saved him from contradiction. He had not thought out the problem. This was a plain slip, and gives further proof (if one were needed) that Dante was as exposed to self-contradiction as any other moral schematizer. This exposure naturally grew when there was a tug-of-war in Dante's thought on any particular question. I shall now show that there had to be a tug-of-war in respect of suicide.

The violent against themselves

Guide Virgil was left explaining that violence is one kind of *malizia*, less hateful than fraud. In speaking of violence, guide Virgil says violence has three sub-categories punished, in Hell, in three distinct *gironi* of the Seventh Circle (which the two wayfarers are about to enter). The three sub-categories involve respectively force used against (1) God, (2) oneself, and (3) one's neighbour:

[28] *Inf.*, 11: 23–4: 'ingiuria è il fine, ed ogne fin cotale / o con forza o con frode *altrui* contrista.' (My italics.) The point, easily passed over, is noticed by A. H. Gilbert, *Dante's Conception of Justice* (Durham, 1925; reprint New York, 1971), 89.

[29] See above, pp. 230–9.

a Dio, a sé, al prossimo si pòne
far forza.[30]

Since violence against God is the gravest kind, and that against neighbours the least grave, the wayfarers actually meet the three kinds of violent people in the reverse order to that given in the list, which means the violent against God are the lowest down, so that the travellers come to them last. Virgil has explained that violence against God is done by 'denying and blaspheming the deity in one's heart, and by despising nature and its bounty'.[31] Mesmerized by the poetry, the reader may miss more anomalies even here, which include that the poem's main historical example of someone who 'denied or blasphemed the deity' is a pagan, who allegedly treated Jupiter with disdain.[32] More important, in that definition, is that Nature has been tacitly slipped in to enjoy the same protection as the Deity: to despise Nature, as well as or instead of God, is to do God 'violence'. This suggests another idiosyncrasy in Dante's thought, a faint tendency—no more—to equate Nature and God (a position usually known as pantheism). Meanwhile, the *least* serious kind of violence, punished in the first *girone* of Circle 7, is violence against a neighbour. Violence against a neighbour is much the easiest distinction of the three for a modern reader to comprehend since it includes all the kinds of person we would today call violent. Modern usage has once more narrowed the meaning of a term, which now covers only one of Dante's three categories of the violent. The *girone* in question is peopled by tyrants, murderers, bloodthirsty warriors, and highwaymen, all of whom are punished by being perpetually submerged in a river of blood to a depth marking their place on that list—tyrants to their eyebrows, highwaymen only to their ankles, and so on.

After the violent against neighbours, and before the violent against God in between, come, finally, the suicides, or the violent against themselves. Crossing a ford in the river of blood near the highwaymen, the two wayfarers pass into the second *girone* of the Seventh Circle, a *girone* covered by woodland: the only vegetation in Hell, as it happens,[33] and appropriately repulsive—a scrubby wood of gnarled, barren little trees with dusky foliage, rather than green. The first feature Dante the wayfarer remarks on is the wood's tracklessness—a feature which may be read as a tribute, conscious or not, to the difficulty of being rational on the topic about to be broached. The same trib-

[30] *Inf.*, 11: 31–2.

[31] *Inf.*, 11: 46–8: 'Puossi far forza ne la deïtade, / col cor negando e bestemmiando quella, / e spregiando natura e sua bontade'.

[32] *Inf.*, 14: 46–66 (Capaneus).

[33] An observation I owe to R. Giglio, 'Canto XIII dell'Inferno', in M. dell'Aquila, C. D. Fonseca, and others, *Lectura Dantis (Potenza, 1984–1985)* (Potenza, 1987), 105–32. (The pasture in *Inf.*, 4: 111 is not in Hell; cf. 14: 8–9.)

ute carries over into the pilgrim's next experience. Dante hears moans on all sides but is ignorant of their source. His guide therefore jumps to the conclusion—again without certain evidence: tracklessness dominates the whole canto—that his protégé imagines the voices to be coming from spirits hiding in the foliage of the trees, and to correct this 'impression of an impression' he tells Dante to do an experiment: to break off a twig from one of the trees and see what happens. Although Dante has not (as Virgil supposed he had) believed the voices came from the trees, he follows Virgil's instruction and breaks off a twig, thus occasioning a howl of protest from the tree. The howl reveals that (whatever Dante's impression may have been) the spirit is not *in* the tree but *is* the tree, and the guide has to explain to the indignant tree-spirit that the latter's unpunished injury was a by-product of a scientific experiment necessary to convince his protégé. Showing distinct magnanimity—considering he is a soul in Hell—the spirit explains both who he is and the rationale of his habitat. He is Pier della Vigna, Frederick II's chancellor, thought to have killed himself when disgraced by his master in 1249. Piero's explanation of the fate of suicides is made in markedly elegant language since Piero was renowned as a stylist.[34]

Piero explains that the moment anyone commits suicide the infernal monster Minos—the judge delegate whose task it is instantly and infallibly[35] to decide which part of Hell a soul should go to—drops the suicide's soul into this place like a seed. The seed falls at random (the tracklessness again) and

[34] Of studies specifically on Dante's suicides, and which have contributed to nuances in the above précis, I have found most useful that of K. Maurer, 'Die Selbstmörder in Dantes *Divina Comedia*', *Zeitschrift für romanische Philologie*, 75 (1959), 306–20, but mention also, besides Rolfs (as in n. 14 above), G. Masi, 'Fra savi e mercanti suicidi del tempo di Dante', *Giornale dantesco*, 39 (ns 9) (1938), 199–238, and E. Bigi, 'Suicidi', in *Enc. Dant.*, vol. 5, 477–8 (whose bibliography mentions further writings on this Canto). It will be clear from the above text, however, that I cannot accept, without serious modification, Bigi's view that Dante's moral philosophy of suicide is drawn from Aquinas (Bigi, 477). Aquinas's *Summa theologiae*, bk 2/2, quaestio 64, art. 5, makes no reference at all to prodigality, to the three types of violence nor indeed to *violentia* as such (see above, pp. 229–31); and while the three kinds of sin—against self, God, and neighbour (in that order)—do appear in bk 2/1, quaestio 72, art. 4 (attributed to Isidore through a misreading of *Summa sententiarum*, tract 3, ch. 16; printed in *Pat. lat.*, 176, 113CD), it is a question of *peccatum* in general rather than violence in particular; this passage mentions homicide only as a sin against a neighbour (sins against oneself being exemplified by gluttony, lust, and—*nota bene*—prodigality). Nor, of course could Aquinas be responsible for any of the nuances I identify below. In bk 2/2, 119, 3, it is true, Aquinas does quote Aristotle, *Nic. Ethics*, bk 4, ch. 1, 1120 a 2–4, to the effect that 'corruptio divitiarum per quas homo vivit, est quaedam ipsius esse perditio'. But the prodigality–suicide link present there (which Dante could certainly have read in Aquinas's exposition of the *Ethics*) remains 'quaedam', and is quoted by Aquinas only as an 'Aunt Sally' to be knocked down. For the view that Dante's direct knowledge of Aquinas was less extensive than once supposed: Foster, 'Tommaso d'Aquino' (see n. 7), esp. 632b and 648b–9a. For further pointers to the extensive bibliography on Canto 13: *Enc. Dant., Appendice*, 574, and—fuller still—Giglio (see n. 33), 105–6.

[35] *Inf.*, 29: 120: 'a cui fallar non lece': another instance of Dante's rhetorical pretence at certainty, to hide *un*certainty.

then grows into a sapling, thence into a shrubby tree. Even in the absence of his vivisectionist visitor the suicide/tree's branches are constantly forced and broken by Harpies—a species of monstrous bird with the face of a young woman and with chronically destructive habits.

Dante's ground for condemning suicide thus appears, as I said, simple. It was an act of violence comparable to murder or mass slaughter but done on oneself. 'The violent against themselves', on that reading, were exactly what they seem to be, like murderers and highwaymen but violent against their own bodies. Interpreted thus, Dante aligns himself with the old tradition which focused not on the thought of suicide but the deed, focusing his attention away from the suicide's antecedent disposition towards the act which effected it. This was the tradition of St Augustine, with his emphasis on the commandment 'Thou shalt not kill'; of the laws north of the Alps that treated suicide as another kind of criminal homicide; and, more distantly, of the Neoplatonist doctrine that to cause one's own death is an act of passion (read *violenza*), prejudicial to the soul.

That is one comment to be made about the treatment of suicide in *Inferno* 13. A second is complementary to it. Dante's condemnation carries next to none of the usual moral accoutrements attached to suicide. His canto says absolutely nothing of despair, the disposition to which suicide was almost universally attributed by Dante's educated contemporaries and whose nomenclature, at least, belonged to his own vocabulary (albeit astonishingly little used).[36] Nor does the canto allude to *acedia*, despair's less malignant brother, mentioned elsewhere in the *Comedy*.[37] Another omission is the Devil. The canto gives no hint that suicide is a peculiar work of the Devil,

[36] e.g. *Inf.*, 1: 115; other references in the article *disperare* in *Enc. Dant.*, vol. 2, 504 (by F. Salsano), which lists only nine occasions in all Dante's writings when the word is used. As to Dante's suicide canto, its commentators went straight to the word *desperare* with its derivatives to denote the inhabitants and their deed: e.g. Pietro Alighieri (Dante's son) *Super . . . Comoediam Commentarium*, ed. V. Nannucci, (Florence, 1845), p. 161: 'Lano qui de divite factus est pauper, et ut desperatus se moriturum inter inimicos praecipitavit'; *L'Ottimo Commento della Divina Comedia*, 3 vols (Pisa, 1827–9), vol. 1, p. 247: 'l'anima d'alcuno disperato [= suicide]'; *Commento di Francesco da Buti sopra la Divina Comedia*, ed. C. Giannini. 3 vols (Pisa, 1858), vol. 1, p. 351: 'per questo [the tracklessness of the wood] vuol dimostrare quanto è pericoloso il peccato della desperazione'. These are only a few of many possible examples; cf. Chapter 11 below. It would be hard to accept (were it to be offered as explanation for the absence of 'despair' from concepts associated with suicide in *Inferno* 13) the theory of the great German scholar Karl Witte that *Inferno* dealt with the 'overt act' while *Purgatorio* only dealt with 'the impulse from which it arose' (K. Witte, 'The ethical systems of the *Inferno* and *Purgatorio*', in his *Essays on Dante* [translated from the German edition of 1879 by C. M. Lawrence and P. H. Wicksteed] (London, 1898), 117–52, on p. 132). Both the principle behind that theory (that it is dispositions with which ecclesiastical penance is concerned) and the texts used to illustrate it, raise too many problems to account for a feature of Dante's vocabulary which extends, in fact, far outside the *Inferno*. Cf. Moore, *Studies*, 2nd series, 165–6, and W. H. V. Reade, *The Moral System of Dante's Inferno* (Oxford, 1909), 9–67.

[37] *Inf.*, 7: 121–4; cf. *Purg.*, 17: 30; 18: 103, 131–2. Cf. Moore, *Studies*, 2nd series, 173–5, 184.

whose direct or delegated activities, described variously in the *Comedy*, never, either in Canto 13 or elsewhere, include the instigation of suicide. Each of these silences is remarkable on its own. In combination they confirm the unusual character of Dante's thought. Canto 13 ostensibly presents suicide just as another act of violence or force, so emphatically that we may wonder why the suicides' spirits are not punished like those of all the other physically violent people, by immersion in blood—their own.

That this is not their punishment is already a sign that Dante's view is less simple than it appears. The main complications are again three, of which the least significant takes us no further than the canto's vocabulary. This suggests other reasons (distinct from mere 'violence') why suicide is wrong. Later in this chapter I shall employ the same interpretative device on a whole series of narrative authors, whose choice of some phrase or word—often a mere adjective or adverb—reveals their moral evaluation of suicide whether the authors wish it to or not. Dante's Canto 13 is full of such uncensored nuances. One is the adjective 'ferocious', which Piero casually uses of the suicide's soul, thus introducing a quality not far from violence but already a little different.[38] Again, Piero says *he* killed himself both through 'disdain' under false accusation,[39] and also because he deluded himself that by suicide he could escape his predicament, thus confessing both to a particular moral fault (disdain) and to a momentous delusion, which led him finally—a third fault—to kill himself, as if he were a guilty man when in fact he was innocent: 'it made me' (he says) 'though just, unjust against myself.'[40] It is as if Piero's own suicide might have been legitimate if he *had* been guilty of the charge on which the Emperor disgraced him whereas, in fact, Piero was guilty of killing an innocent man. Ferocity, then; disdain; delusion; injustice: four nuances, distinct from 'violence', lurk in the poet's very exposition.

And a fifth. One feature of the suicides' punishment—a feature unique in Hell (and incidentally a doctrine unique to Dante and one which his most authoritative fourteenth-century commentator did not hesitate to call heretical)[41]—is that, while all other souls will return to their terrestrial tombs at the

[38] *Inf.*, 13: 94: 'Quando si parte l'anima feroce'.

[39] *Inf.*, 13: 70–1: 'L'anima mea, per disdegnoso gusto, / credendo col morir fuggir disdegno'.

[40] *Inf.*, 13: 72: [continuing] 'ingiusto fece me contra me giusto.' Cf. Augustine, *De civ. Dei*, bk 1, ch. 19, §2: 'Lucretia innocentem . . . Lucretiam . . . interemit;' alluding also to lines in Virgil whose meaning is actually less clear, namely *Aeneid*, bk 6, lines 434–5: 'qui sibi lethum / Insontes peperere manu'. Cf. Plato, *Laws*, bk 9, 873c: '*ἑαυτῷ δίκην ἄδικον ἐπιθῇ*'; and n. 46 below. Augustine spells out his reasoning more clearly than Dante: Lucretia's suicide was doubly guilty, both (that is) in itself, and because the person whom it killed was innocent (if Lucretia *had* committed fornication, it would follow, her suicide would have been guilty for one reason alone). Dante's Piero does not say any of this.

[41] Benvenuto da Imola, *Comentum super Dante Aldighierii Comoediam*, ed. J. F. Lacaita. 5 vols (Florence, 1987), vol. 1, 448: 'quod auctor hic dicit non solum videtur erroneum, sed expresse haereticum.'

Last Judgement, to collect their bodies and be reunited with them to be further punished *ad infinitum*, suicides will be denied this reunion. Their spirits will return to collect their bodies but will not be reunited with them. Instead, suicides' bodies will be dragged down to the wood in the Seventh Circle, each to be hung on the spiky branches of the soul guilty of suicide.[42] From the chapter on 'The Body' at the beginning of this volume, we recall the 'dragging' of a suicide's body in some contemporary European jurisdictions. Pier's speech suggests other contemporary echoes. The bodiless state of the suicide matches certain beliefs (touched on in Chapter 4 in respect of Porphyry and to be mentioned again in Chapter 13) about suicides' ghosts, which wander about long after they have died, bodiless. While it is hard to evaluate the severity of the suicides' non-resurrection against the background of the other measureless horrors of the *Inferno*,[43] its rationale is explicit, and Pier della Vigna explains it. Suicides will not be reunited with their bodies, he says, because: 'it is not just that a man should have that of which he has robbed himself.'[44] Suicide, in other words, besides being wrong because violent and potentially the result of any of a range of wrongful dispositions, is also, by a fifth nuance, self-robbery. We may or may not wish to add a sixth, marginally distinct again, in the idea of needless waste, implied by the presence of the Harpies, whose Virgilian past—referred to expressly in the canto—evokes wanton destruction.[45]

While these jostling nuances add colour to Dante's condemnation of suicide, they remain distinct from the concept of physical violence, and in that degree both complicate his moral case and allow for possible contradiction: not all the nuances sit at ease with the others—disdain with waste, for instance, or ferocity with self-robbery. This disharmony is again the fruit of Dante's eclectic method: like all great poets he was an appreciative and ingenious plagiarist, as indeed he intended to be (following canons explicitly embraced by poets in his time: they were meant to choose models and imitate them). We do not know for sure why Dante conceived the idea of writing the *Comedy*—his own utterances on the subject being not rock-fast reliable—but the *Aeneid* must have played a central role. Dante had a thoroughly Christian culture, and had every chance of absorbing current speculations on the destiny of souls. But this culture was not enough to beget the *Inferno*. What must

[42] *Inf.*, 13: 103–8: 'Come l'altre verrem per nostre spoglie, / ma non però ch'alcuna sen rivesta, / ché non è giusto aver ciò ch'om si toglie. / Qui le strascineremo, e per la mesta / selva saranno i nostri corpi appesi, / ciascuno al prun de l'ombra sua molesta.'

[43] *Pace* Benvenuto, ibid., who describes this sentence as 'passum fortem et arduum, quo nullus fortior reperitur in toto poemate isto.' This must surely remain a matter of opinion.

[44] *Inf.*, 13: 105.

[45] As noted by Pietro Alighieri's commentary (see n. 36), 160: 'Harpiyae, id est *rapinae* . . . faedant sua cibaria [etc.].' Cf. *Inf.*, 13: 48: [Virgil compares the scene to] 'ciò ch'ha veduto pur con la mia rima'; *Aeneid*, bk 3, 225–67.

have done that was the sixth book of the *Aeneid*, where Virgil describes Aeneas' awesome journey to the underworld, led by the Sybil, just as Dante would be led by Virgil. The source of his first inspiration, the *Aeneid* was also Dante's first gold-mine for scores of names and material details destined to reappear in the *Inferno*. These details, besides offering evocative images to show what the underworld looked like, included moral implications. Some concerned suicide, and several of these Dante absorbed without further reflection. In Book VI, Aeneas enters a region of the underworld allotted to those 'who killed themselves though innocent and, hating light, threw away their souls'.[46] Dante's ideas of suicide as a killing of the innocent, and of suicide as waste, must have started there, far from any Christian source of moral philosopy. No wonder the nuances in *Inferno* 13 jostle each other. They reflect sources of inspiration theologically unrelated.

That is one complication to Dante's apparently simple view. The second is even more far-reaching. The term 'violence' today has one predominant meaning and one subordinate one, the former covering killing or wounding someone, the latter, the idea we express by saying 'he does violence to the truth' in the sense of 'he twists or misrepresents' it. Yet again, modern vocabulary has narrowed the correlation of a medieval term, turning a largely abstract medieval idea into something tangible and immediate.[47] To say 'there is too much violence in modern society' means, today, that too many people are being shot or stabbed. It is only in the word 'violation' that we keep the earlier meaning uppermost. In the learned vocabulary of Dante's time the two meanings of *violentia* were more nearly in equilibrium, and allowed marginally higher status to the abstract. To a moral philosopher *violenza* meant a kind of injustice or disturbance of natural balance, so that to throw a stone upwards was 'violent' because a stone's 'natural' motion was downwards.[48] This notion grew *pari passu* with the growth of the role of Nature as moral norm, an idea which, in its turn, grew roughly *pari passu* with the influence of Aristotle (though it was far from solely dependent on him).

Only this interpretation of the word *violenza* can explain the varieties of souls found in Circle 7, and, most notably, in its second *girone* where the suicides are. These have to share their unnaturally horrible wood with those who have squandered their possessions. The punishment of the squanderers, while occupying the same wood as that of the suicides, stands in dramatic contrast with it: a contrast between helpless immobility and fast movement, between

[46] *Aeneid*, 6, 434–6: 'qui sibi lethum / Insontes peperere manu, lucemque perosi / Projecere animas.'

[47] See above, n. 19.

[48] A. Bride, 'Violence', in A. Vacant, E. Mangenot, and E. Amnan, eds, *Dictionnaire de théologie catholique*, 15 (Paris, 1950), 3086–93, esp. 3086–7; Aquinas, *Summa theologiae*, bk 2/1, quaestio 6, art. 4. The Stone: *Resp.*, near the end.

moaning and shouts. Unlike the invisible, eternally rooted souls of the suicides, the squanderers' souls enter with the din of crashing branches and yells that announce a hunt. The quarries of the hunt are identified as Jacomo da Sant' Andrea and Lano of Siena, both notorious in their time as wastrels of their own property. The pair arrive out of breath, with hunting dogs hard at their heels, which leap on Jacomo even though he has tried to 'make himself one' with one of the suicide bushes, and tear him limb from limb.

Suicides; wastrels; what have the second to do with the first? The answer may throw light on Dante's thinking. Wasting one's substance, Aristotle had once said, is 'a certain kind of self-destruction'.[49] Dante's knowledge of that text (again via Aquinas's exposition of the *Ethics*) may have been why Dante put suicides and wastrels together; nor was this entirely out of harmony with the usage of his educated contemporaries, whom we very occasionally find associating the two ideas.[50] Not only was prodigality *like* suicide, it could sometimes lead *to* suicide, as some Dante commentators pointed out, especially with reference to that Lano of Siena, dog-quarry, who some contemporaries said had gone intentionally to his death in a battle after becoming bankrupt.[51] A *kind* of self-destruction—a metaphorical kind—is nevertheless a long way from being actual self-destruction, if we are to use plain language; and the same applies to acts which may *lead* to self-destruction. They are not the *same* as self-destruction, and to punish them in the same place evokes a host of moral asymmetries, asymmetries which nevertheless fall away in proportion as the term *violenza* is understood in its abstract meaning. Then there is less difference between prodigality and suicide, since the squanderers do an *ingiuria* (that kind of violence) against themselves, as do the suicides. Dante has here behaved like those northern French justiciars who treated a suicide's body and property as a single unit of forfeiture, since the *Inferno* gives the body and property a single sanction against being thrown away by their owners. Dante is implying that a man must waste *neither* his body *nor* his wherewithal, either act constituting an offence against a man's own self.

The suicide's violence, then, is thus not primarily a matter of bloodshed but rather of what we would call a 'violation', a distortion of natural rectitude. This concept of *violenza* could be pursued further. To do so would be to reveal, *inter alia*, why the suicides and squanderers are followed (in *Inferno* 14) by blasphemers, sodomites, and usurers, all 'violators', in the modern

[49] Aristotle, *Nic. Eth.*, bk 4, ch. 1, §5; see n. 34 above.

[50] Nicholas III, *Exiit qui seminat*, in Friedberg, *Corpus iuris canonici*, vol. 2, col. 1113: 'Nec quicquam ex his insurgat erroneum, quod taliter propter Deum proprietatem omnium abdicantes, tanquam homicidae sui vel tentatores Dei, vivendi discrimini se committant.' Cf. Aquinas, *Summa theologiae*, bk 2/1, quaestio 72, art. 4 (as on p. 300, n. 34 above).

[51] See n. 34 above, and *The Violent against Themselves*, 68–9.

sense, of some norm conceived to be right and natural. This is how Dante's gentle but apparently homosexual mentor, Brunetto Latini, comes to be below the murderers and highwaymen: he was 'violent' against Nature and therefore against God. It is also why the banker Scrovegni—whose money paid for Giotto's famous Padua frescoes—is in Hell below the Sodomites, for Scrovegni's usury also did 'violence' to Nature by shunning the natural ways of making money. These are judged as having violated some*thing* rather than some*one*. For once, by accepting this concept of *violenza*, Dante was not being idiosyncratic, any idiosyncrasy in this connection lying rather in our modern western vocabulary, which has (yet again) narrowed and materialized a broad, abstract medieval idea by attaching it to a single type of physical act. Shorn of this modernizing interpretation, Dante's objection to suicide therefore realigns itself within the doctrinal tradition. It leaves behind the Augustinian 'thou shalt not kill' school of anti-suicide doctrine and moves, instead, into the tradition of Grosseteste and other Aristotelians whose instinctive reaction to suicide was that it was an affront to Nature. An individual's feeling for self-preservation, on this reading, is both an instinct and a duty, both natural and morally imperative simultaneously. The unnatural character of Dante's solitary vision of nature in the *Inferno*, the scrubby woodland, fits this concept perfectly.

These elaborations do not weaken Dante's original condemnation of suicide. They strengthen it: a solid condemnation of anything often relies on several motives at once, each reinforcing the others. Yet, as before, Dante's view has been shown to have been less simple than it appears. It was compound, full of fissures and possible contradictions. Since compound views, like this one, usually reflect configurations of influence unique to the person who holds them, the lack of simplicity in Dante's view adds suicide to the subjects on which his views were all his own, idiosyncratic. That, then, is the second peculiarity in Dante's moral scheme, as it deals with suicide, showing Dante's view of it to be far from simple. That leaves one more. It is the most complicated of all.

Vagrant suicides

To identify it let me begin with bare numbers. The canto for 'the violent against themselves' contains just two certain examples of suicide and a possible third (Lano). That is all. Now it is true, in the *Inferno*, that two or three is not a particularly low score for one sin. The poem's structural elegance is not matched by any regularity in the number of its examples per sin, so that a few enjoy no examples at all while some have vague and anonymous examples. The tally only rises above three when Dante comes up against one of his

special preoccupations, like classical philosophers or corrupt popes (several of whom he does identify). So the paucity of identified suicides in Canto 13 does not, by itself, sell the sin short. But it does in relation to the ensemble of suicides in *The Divine Comedy* as a whole. For there are actually at least *fifteen* suicides in the *Comedy*, all but the aforementioned two or three being outside the suicide canto.[52]

The unexplained thirteen are figures from classical history and can be sorted into categories. One was mythological, and gets no more than a mention (Deianeira).[53] Three more can be discounted as having had a so-called 'voluntary death' forced on them as a form of execution (Socrates, Seneca, and Lucan).[54] That leaves nine: Lucretia, Diogenes, Empedocles, Dido, Cleopatra, Brutus, Cassius, Amata, and one more I shall name shortly.[55] Given the relative frequency of suicide in the ancient world, Dante could hardly avoid getting a few suicides accidentally into his Limbo (among the good pagans), and three of the nine are duly there: Lucretia, Diogenes, and Empedocles.

It is we, with other historical sources at our disposal than *The Divine Comedy*, who can identify all these fifteen spirits as suicides (or thirteen if only the historical ones are counted); and most of Dante's educated contemporaries could have done the same. But Dante does not say of them that they were suicides, or not most of them. He mentions Lucretia, Brutus, and Cassius, for instance, without a word of how they died. It is true that there were poetic reasons for this: to mention their suicides might have complicated the moral picture and made readers wonder whether their souls had been put at the wrong address. But this explanation only adds significance to the exceptions.

Two of the exceptions—where Dante does allude to the fact of suicide—were exceptions because they would *not* have complicated the moral picture.

[52] Not counting Manfred, by the way, who died in the manner of Lano of Siena by plunging into a battle he knew to be hopeless; *Purg.*, 3: 103–35. cf. *The Violent against Themselves*, 67–8.

[53] *Inf.*, 12: 68. [54] *Inf.*, 4: 90 (Lucan) and 134 (Socrates); 5: 141 (Seneca).

[55] *Inf.*, 4: 128 (Lucretia), 137 (Diogenes) and 138 (Empedocles); 5: 6–2 (Dido) and 63 (Cleopatra); 34: 65 (Brutus) and 67 (Cassius); *Purg.*, 1: 31–2: 133 (Cato); 17: 34–9 (Amata). My most important additions to the list in Maurer (see n. 34), 307–8, and Rolfs (see n. 14), 202, are Brutus and Cassius; but I would venture to press, against Maurer (308) and Rolfs (202), that the version of Empedocles' death which has him leap into Etna (so that the disappearance of his mortal remains will confirm the impression that he is immortal)—as against a milder, more scientific, Plinyesque version embraced by Albert the Great—is hard to interpret otherwise than as a suicide (see p. 128 above). The above list may still be incomplete, not least because in the circle of the *lussuriosi* Virgil refers to 'more than a thousand . . . taken from this life by love-affairs' (my translation of *Inf.*, 5: 67–9: 'e più di mille / ombre mostrommi e nominommi a dito, / ch'amor di nostra vita dipartille.' (This last phrase may, of course, indicate a mere fading away for love *à la* Tristan, but since Dido and Cleopatra feature in the group it cannot exclude suicides.)

This is because the two are not proper residents of Hell or Purgatory but are merely mentioned there, and are identified as suicides because the fact of suicide heightens the characters' moral colouring. Thus King Saul explicitly 'fell on his own sword',[56] and in Purgatory the wayfarers see him depicted on a bas-relief, illustrating examples of the sin of pride, of which suicide can be seen as extreme nemesis. The same applies to Queen Amata, widow of the king of Latium whom Aeneas supplanted to found Rome. The wayfarer Dante sees Amata in a vision granted to him while visiting the third ring of Purgatory. In the vision, Amata's daughter says to her mother: 'why did you chose to annihilate yourself because of anger?'[57] and, even more explicitly a moment later, 'you killed yourself.'[58] Here again, the explicitness of the allusion to suicide heightens Amata's role as moral *exemplum*, since the third ring of Purgatory purges the sin of anger, well-established by literary tradition as a cause of suicide (adding yet another nuance, it may be noticed, to Dante's own view of the act):[59] that Amata should have killed herself just shows what anger can do. In both examples the fact of suicide adds force, as an extreme evil consequence, to Dante's moral polemic against a particular sin *other* than violence against oneself. Dante could afford to do this here because neither Saul nor Amata is an actual inmate of Hell or Purgatory with all the consequences that would have involved; they are only referred to obliquely.

That leaves two cases, both pregnant with complications. Dido's suicide was printed on Dante's and everyone else's mind by *Aeneid* IV. (No one cared then—does anyone care now?—that Varro, an author of much weightier historical authority than Virgil, said it was Dido's *sister* who killed herself for love of Aeneas.)[60] In the *Comedy* Dido is an actual resident (not a mere image or vision) in *Inferno* 5, and Dante says outright there that Dido 'killed herself for love'.[61] If suicide is so wicked, why, we may ask, is Dido not in *Inferno* 13? Virgil, for his part, had put her in the part of *his* underworld reserved for suicides. He refers to suicides as those 'who killed themselves though innocent and, hating light, cast away their souls'.[62] Dante, aware that even his favourite classical poet might benefit by baptism, had looked in St Augustine's *Confessions*[63] and read there that Dido had 'killed herself for love'. So he borrowed the phrase (as *s'ancise amorosa*) and put Dido in a part of his own underworld which punished a Christian cardinal sin, along with a lot of Christian

[56] *Purg.*, 12: 40–1; cf. I Chron. 10: 4.
[57] *Purg.*, 17: 36: 'perché per ira hai voluto esser nulla?'
[58] *Purg.*, 17: 37: 'Ancisa t'hai per non perder Lavina'.
[59] e.g. Seneca, *De ira*, bk 1, §1; Prudentius, *Psychomachia*, line 161. Cf. pp. 302–3 above.
[60] Servius, *Commentaria in Aeniados*, Comment to bk 4, line 682; ed. A. F. Stocker and A. H. Travis (Oxford, 1945), 459: 'Varro ait non Didonem sed Annam amore Aeneae impulsam se super rogum interemisse.'
[61] *Inf.*, 5: 61. [62] Above, n. 46. [63] Bk 1, ch. 13, §1.

cardinal sinners like the celebrated lovers Paolo and Francesca. This makes Virgil the better theologian. He had had a part of Hades specially *for* suicides, *lucemque perosi*: 'those who hated light', and Dante had messed that up. Perhaps he already felt a certain embarrassment at doing so since in the very next line to Dido, in the circle of the lustful, he mentions Cleopatra without any hint that Cleopatra too had killed herself (with an asp). Literary models quite apart, there was again a strong literary reason for letting on that Dido had committed suicide. Like the suicides of Saul and Amata, that of Dido serves in Canto 5 to show what a dreadful extremity a particular sin—this time lust—can lead to. All this makes another clue, if one were needed, that Dante had not planned to have a suicide canto when he began *Inferno*. Instead, in his excitement to baptize his classical model he had almost drowned in the baptismal font himself. In the event he appears to have climbed out, visibly embarrassed, to start again and try building a more systematic ethical structure for both Hell and Purgatory.

We may find ourselves wondering why poets should have to impale themselves on such moral contradictions to create verses the rest of us can only seek out, enjoy, and ruminate on. The only answer must be that it seems to be the case that they do. It was certainly true of Dante; and can be proved to be because, even after he *had* picked himself up to build his new ethical structure in *Inferno* 11, he still fell into contradictions, and into one, in particular, bigger than any before: concerning Cato of Utica.

Cato

Line for line, Cato occupies over three times as much of the *Comedy* as his next suicidal competitor, Pier della Vigna. The two wayfarers, Dante and Virgil, meet Cato as they emerge from the path leading from Hell and approach Mount Purgatory.[64] At the entrance to the Mountain, Cato, the great Stoic, stands guard. Why he should have been chosen for this high office has been a puzzle for Dante's commentators from his day to ours, for, although a pagan, Cato enjoys unique status by being, not only clear of Hell, but the actual *proprietor* of Purgatory.[65] (He refers to '*my* caves', and in talking to him the wayfarer Dante calls the seven stages of Purgatory 'your' kingdoms.)[66] Everyone

[64] *Purg.*, 1, 31–108; 2, 118–133. For what follows see especially: M. Fubini, 'Catone', in *Enc. Dant.*, vol. 1, 876–82, and E. Paratore, 'Lucano', ibid., vol. 3, 697–702. Cf. pp. 139–42 above.

[65] The view that Cato is not destined to be saved was put by, among others, the 18th-century Franciscan commentator Lombardi as a manoeuvre for rescuing Dante's own orthdoxy; cf. *Enc. Dant.*, 1, 879b. But the fact that Cato is safely above the frontier of Hell is put beyond doubt by *Purg.*, 1: 44–5: 'che vi fu lucerna, *uscendo* fuor della profonda notte . . . ?' [again my emphasis], as well as by *Purg.*, 1: 78–9 and 84, and by Cato's generic superiority to his wife Marcia (in Hell).

[66] *Purg.*, 1: 48 ('mie grotte') and 1: 82 ('tuoi sette regni').

else in Purgatory will eventually be saved. Logic dictates that this must extend to its owner and gatekeeper. Cato's body—the poem says in so many words—will on the Day of Judgement 'shine brightly'.[67] This salvation is procured for Cato, furthermore, without any attempt on Dante's part to make him a secret Christian as he was to make Statius,[68] or a Christian by special dispensation as he was to make (in their places) Rifeo[69] and Trajan.[70]

Now all Dante's readers, with any education at all, knew Cato was a suicide, indeed, that he was a suicide *par excellence*. Cato had done the deed for a cause, not for love or in military defeat; and he had done it with appropriate care, to make sure everyone knew. Nor, if any of Dante's readers had forgotten about all this, did Dante allow them to ignore it; for as the two pilgrims confront Cato at the entrance to Purgatory, the guide Virgil identifies his protégé as one who

> journeys to find liberty, which is so dear,
> as any knows [my italics] *who gives up life at her behest.*
> You know it, *for death was not bitter for you*
> *in Utica*, where *you left*
> *the load* which will shine so brightly on the Great Day.[71]

From time to time in this volume, a medieval suicide problem has opened up an identical distant landscape, a landscape marked out by the long, irregular, twin lines of the classical and Christian traditions, which approach the observer from afar and meet at the very point of his vision. It has happened again, with Dante's Cato. As before, the historical landscape has become visible through circumstances peculiar to the vantage-point. There were two Dantes in tension, and the tension survived his earnest concern to remove it. Cato had slipped through Dante's vigilance. The reason why he was able to do so was because there were, in fact, *more* than two Dantes: there were three—and no one can keep guard against more than two dangers at once. In this Dante was, once more, typical of his native Florentine culture, but more exposed to its dangers than other Florentines, by reason of his very virtues. For there were three *Florences*. There was, first, the purely Christian city, home of the purely Christian Dante who referred to St John's Baptistery as 'mine',[72] not only because he had been baptized there, but because he rejoiced in a patronage that bound his city directly with the origins of Christianity. But then there was Roman Florence. Florentines—true ones, at least, not the

[67] *Purg.*, 1: 75; see next footnote. [68] *Purg.*, 22: 90.
[69] *Purg.*, 20: 124–6. [70] *Purg.*, 20: 43–5.
[71] *Purg.*, 1: 71–5: 'libertà va cercando, che è sì cara, / come sa chi per lei vita rifiuta. / Tu il sai, ché non ti fu per lei amara / in Utica la morte, ove lasciasti / la vesta che al gran dì sarà sì chiara.' Utica: Cato died at home.
[72] *Inf.*, 19: 17.

smelly immigrants[73]—claimed direct descent from the ancient Romans, world conquerors, the legendary adornments of whose history by Florentine historians may not, to us, prove anything ancient, but do prove something medieval, namely the centrality of ancient Rome in the city's self-consciousness.

An ideology based on ancient Rome should, from some points of view, have united Florence and with it her great poet, so that Christianity and Rome could have been left to battle it out as a duo. The problem was that—Christianity quite apart—there were two ancient Romes. There had been two Romes centuries before and—ghosts being the perennial haunters they are, however invisible in the busy day—both still haunted Florence in Dante's time in the form of two authentically Roman ideologies, wrestling for predominance among politically minded Tuscans. First, there was the Rome of the Empire, founded by Julius and Augustus Caesar; but second, there was also, coming down from a time before that, the Rome of the Republic, subduer of Italy, Greece, and Africa, a Republic which reviled the idea of rule by one man. This distinction presented a dilemma to any Florentine. Proud heir to the Romans, he had to ask himself which kind he was proud heir to: the self-sacrificing vassal of a divinely appointed authority, ready at an instant to go to war and die for his Emperor (or, it might be, for Christ's Church under its quasi-imperial pope)? Or was it the virtue-conscious, philosophical Republican, loyal to the authority of a community of equals and obedient only to governments which acted in those equals' name? The very boast that Florence was Roman betrayed its essentially young, *arriviste* character, as an intensely commercial city, itself increasingly republican in constitution (for its own reasons), yet simultaneously hungry for recognition and alliances in a hierarchical world and having to choose, in the last resort, between superpowers both of whom boasted legal descent from the principate.

Florence's internal factions were one result of this dilemma, a result obvious in the sources. The other, less obvious, was tension in the thought of the individual citizen. Dante would have preferred not to be a case in point. He had other preoccupations,—so many, in fact, that he did not pay enough attention to this particular tension to prevent its opening a flank in his moral philosophy. The danger was for much of the time latent. Rhetoric was there to cover it up if it appeared. It only needed the right occasion, however, for the danger to burst out and split Dante in two.

The occasion, once more, was suicide; and had to be. The capacity of suicide to create contradictions has been illustrated again and again, and it was once more active here. Its impact is instantly clear if we compare the lines

[73] *Par.*, 16: 49–57.

which introduce Cato, in *Purgatorio* 1 and 2, with those immediately before them at the end of *Inferno*. In the last and deepest pit of Hell the wayfarers Dante and Virgil have just seen Brutus. Brutus had earned his extremity of pain by betraying and assassinating his master Julius Caesar, thereby (according to the scheme of *Inferno* 11) abusing his specifically human attribute of reason, to betray one who had most cause to trust him. Dante the poet did not at this point reflect—nor (for that matter) did his commentators reflect until a long time after[74]—that Brutus should not have been in Hell at all, since it was really *Caesar* who had betrayed *Brutus*, by setting up a dictatorship in defiance of republican tradition. Brutus deserved praise, not blame, for his brave tyrannicide, an act permitted and even encouraged by some leading thirteenth-century theologians if there were no other way of stopping a tyrant. Of course Dante was an imperialist. Therefore (theoretically) he was pro-Caesar and against Brutus. But that merely shifts the problem. For the very next spirit the two wayfarers meet in *The Divine Comedy* (after a speedy clamber up the stairway from Hell) is that of the man who was—as a matter of well-documented historical fact (known to every educated person then as now)—Brutus's father-in-law, Cato, a man who had stood up for the same republican cause as his son-in-law, except that, instead of killing someone else for the cause, had killed *himself* for it. This man, Cato, now enjoyed a diametrically opposite destiny to that of Brutus, being promised Heaven. Cato was the only one of Dante's pagans to remain a pagan and enjoy that happy prospect.

This contradiction in Dante cannot be explained away. But it can again be explained short of that by reference to Dante's literary models. After starting Dante off on *Inferno*, Virgil's *Aeneid* had apparently exhausted its virtual monopoly of Dante's attention by a point somewhere between Cantos 7 and 9.[75] That left the field for other classical influences, of which the principal, certainly in the *Inferno*, was Lucan.[76] Lucan's epic *Pharsalia* narrated—with a relentless attention to gory detail only too easy to recognize again in the *Inferno*—the civil war between Caesar and Pompey. Here again was the old problem, the civil war all over again but now internalized. For by lighting on

[74] I am accepting, with H. Baron, *The Crisis of the Early Italian Renaissance*, 2nd edn (Princeton, NJ, 1966), 48–54, that mainline commentary did not make this protest with any force until 1400.

[75] Whitfield, *Dante and Virgil* (see n. 16), counts 147 echoes of the *Aeneid* in *Inf.* 1–6 and only 35 from *Inf.* 7–12, basing his statistics on the appendix to Moore, *Studies*, 1st series, 344–8. Maurer (see n. 34), 318–9, finds the *Aeneid* dominant until *Inf.* 9; while Giglio (see n. 33), 123, sees the *Aeneid* influence strongest precisely in *Inf.* 13—minor disagreements which underline critics' unanimity on the change itself.

[76] E. Paratore in *Enc. Dant.*, 3, 697b, who goes further than Moore, *Studies*, 1st series, 351–2 (identifying 28 direct references to Lucan in the *Comedy*, distributed respectively in the 3 *cantiche* in the quantities 11, 10, and 7, and cf. ibid., 228–42).

Virgil and Lucan as his classical poetic models, Dante the poet had set a trap for Dante the philosopher. Politically, Virgil and Lucan had been on opposite sides. Virgil (died 19 bc), a contemporary and to a large extent a beneficiary of the civil war, saw its imperial outcome as providential. Lucan (who died in ad 65), was a contemporary of the early principate, nostalgic for the republic, and saw Julius Caesar as the author of the civil war and a source chiefly of terror (Lucan's image of Caesar the terror reappears, paradoxically in view of Dante's imperialism, in the *Comedy*).[77] In so far as Lucan's epic has a hero at all it is not Caesar but Pompey, Caesar's rival; but even that, anyway, is not far, since republicans do not like heroes, at least of the military kind who attract personality cults. If the republican has a hero at all, it is the ordinary, virtuous citizen, living at home and getting on with a citizen's business. And in the shadows behind Pompey—recipient of Pompey's express homage early in the epic[78]—stands just such a hero: Cato. After Pompey's death Cato unmistakably becomes hero of the *Pharsalia*. Everything suggests that it was from Lucan's portrait that Dante took the lineaments of the gatekeeper in *Purgatorio* 1 and 2.[79]

Because Virgil and Lucan saw the destiny of Rome differently the poet who borrowed from both could hardly help being torn in two directions. Dante's surrender to this danger nevertheless owed its final element to a personal dilemma of his own. While the three-way pull that affected him—Christian, Roman-imperial, and Roman-republican—touched every Florentine in some degree, its effect on Dante was enhanced by the political stance he had himself devised. For of all the political beliefs Dante was certain about, the most certain—and the belief for which he was exiled on pain of being burned alive if he returned—was that the Church should eschew all political power, particularly in central Italy and particularly in Florence, which stood as next-door neighbour to a papacy which thought otherwise. If Dante's Roman ideology hovered between Rome's imperial and her republican incarnations this was because, as a Tuscan citizen innately suspicious of the papacy, he was trying to hold both ideals simultaneously: that of a free republic, and that of the only great power which (to anyone who feared and resented the papacy) could or should protect that freedom, namely the Emperor. To Dante, who conveniently elided the two ideals in his *De monarchia*, the Emperor's very title to authority rested on the guarantee his office provided for the citizen's freedom.[80] Scholars debate whether Dante had ever actually met an Emperor.

[77] *Inf.*, 4: 123: 'Cesare armato con li occhi grifagni'; *Par.*, 11: 69: 'colui ch'a tutto 'l mondo fé paura'. *Grifagno* means 'hawk-like'.

[78] *Phars.*, 2, 247. [79] Bubini, 'Catone', 880–1; Paratore, 'Lucano', 701a.

[80] *Mon.*, bk 1, ch. 12, §8: 'existens sub Monarcha est potissime liberum.' Cf. *Epist.*, 6 §5: 'iugum libertatis horrentes' (to rebellious Florentines). Another idiosyncratic approach to the same problem, with possible influence on Dante, is described by Davis, 'Roman patriotism and

Perhaps he had met Henry VII, perhaps more than once, but all that is conjectural. What he had certainly never met was regular imperial rule, a condition denied to Italy in his lifetime. This gap in his experience cannot have failed to ease Dante's loyalty to the difficult double ideal he had contrived, one-man rule, and civic freedom. Experience might have split its two halves apart, and changed Dante's political career.

Moral theology actually did split the halves apart, and affected Dante's doctrine precisely at the point of Cato's suicide. It will be recalled (from Chapter 4) that virtue takes sides in a civil war, of the kind described in *Pharsalia*. It is republican, since a republic, unlike a dictatorship, depends on the virtue of its citizens to function, while on their side, the citizens depend (if their virtue is to be exercised) on the freedom which a republic alone guarantees.[81] This symmetry carries over—both via Dante's two classical models and his own internal dialectic—into the character of Dante's Purgatory, whose very centre is held by the ideal of human virtue. Because the ascent of the mountain leads directly to the Earthly Paradise, not the Heavenly, virtue (in the Roman sense) is its key, and is correspondingly the key to its symbolism. This symbolism surrounds Cato. Above his head at the entrance to Purgatory the wayfarers see four bright stars, 'never seen before except by the first people'[82] (that is, since man's expulsion from the mountain-top Paradise by reason of Adam's sin). The four 'holy lights' illumine Cato's face so brightly, the poem declares, that it looked as if the sun itself was shining there.[83] No commentator was ever in doubt about what the four stars signify. They are so-called Moral Virtues, the pre-Christian ethical inheritance to which Paul's triad of Faith, Hope, and Charity were soldered to form the scholastics' Seven Cardinal Virtues. That they lit Cato's face meant that he, supreme embodiment of the classical moral inheritance (as it were the pagan Old Law, counterpart to the Jewish) had attained so high a level of virtue that it seemed as if the sun of Christian truth shone straight down on him. The moralists Aristotle, Seneca, and Cicero had explained what a moral man had to do. Cato had done it. And he had done it, not merely by acting throughout his life according to the strictest ideals of republican virtue, but by dying for these ideals as a martyr. Cato's suicide was not, therefore, in any degree a derogation from a life of flawless republican virtue. It was its ultimate expression, offered at the critical historical moment when that sacrifice was demanded for the good of the state generally,[84] almost as if foreshadowing the death of Christ, who, a

republican propaganda' (as in n. 16, 224–53), and 'Ptolemy of Lucca and the Roman republic' (ibid., 254–89).

[81] See p. 141 above.
[82] *Purg.*, 1: 23–4.
[83] *Purg.*, 1: 37–9.
[84] *Mon.*, bk 2, ch. 5, §15–16.

few years later, would offer his own, strangely parallel, sacrifice for mankind as a whole.[85]

We do not have to accept this chain of ideological reasoning to recognize its force. St Augustine did not accept it. But he recognized its force urgently enough to devote the core of the suicide chapters in *The City of God* to pulling the chain apart. By that time there was only one Augustine. When Dante wrote *Purgatorio* there were still two of him, Christian and pagan, kept apart by the confusion introduced by his ostensible loyalty to a Roman ideal itself split in two. The ideal of a Christian Empire would happily have accommodated the first two Dantes, loyal to Christ and the Emperor. But it was contaminated by a republican nostalgia inseparable from its Roman origin, and fed at a critical point by Lucan. This is what put a fatal flaw into Dante's moral philosophy, by insinuating, not just any non-Christian element into the heart of the *Divine Comedy*, but the distinctive, tell-tale element which, in a medieval philosophical milieu, always betrayed the difference between Christian and Stoic, namely suicide. An ingenious lawyer might, it is true, have reconciled the difference between *Inferno* 13 and *Purgatorio* 1 by resorting to the principle of the special divine command,[86] a principle Dante associated with Cato in *De monarchia* (where he quoted Cicero's *De officiis* to that effect).[87] But he shows no sign of having thought of it, or having wanted to think of it, in the *Comedy*, where the principle could most naturally have come to his rescue. The Dante that felt the force of Cato's ideology had too much at stake, both in poetic exempla and in his own moral preoccupations, to remember or endorse Augustine's suicide chapters. Their presence would have meant doing without Cato, whose suicide Augustine had unequivocally condemned. So Dante put any possible objections among those awkward questions we all agree not to ask. The result, as it was bound to be, was a contradiction. The Christian Dante, in one part of the *Comedy*, had damned suicides *qua* suicides, in perfect consonance with current Church doctrine and for a whole configuration of improvized and largely intuitive reasons. The Roman Dante, in another, and expressing influences from different areas of his reading and moral allegiance, had given the unique privilege of Christian salvation to the very suicide, paragon of Stoics, whom Augustine, the most authoritative Latin Church Father, had made supreme victim of his polemic.

The rest of this group of chapters will look at another species of

[85] A parallel elaborated by Maurer (see n. 34), 313–14. For the significance of the Cato scene, see also Maurer and Fubini (as in nn. 32 and 64).

[86] See Maurer (as in n. 34), 320.

[87] *Mon.*, bk 2, ch. 5, §17, quoting Cicero, *De off.*, bk 1, ch. 31, §112. For St Augustine's adoption of the 'special command' principle see 108 and 115 above.

occasional theologian, whose utterances come at the opposite end of the literary scale. The species will be with us for a while, and deserves a word of introduction.

Passing Remarks by Storytellers

A great writer, even one as historically minded as Dante, is not the historian's best friend. No one sets out to write a classic if what he has to say is already known by the generality of people, nor does the mission of a classic to teach them change that situation overnight. Dante's theological idiosyncrasy therefore applies in other sectors too: the very fact that he can speak to us today, as he could to his contemporaries, means he is not quite like any of us, then or now. So whatever history we learn from Dante does not, or not primarily, owe anything to his status as a sample. For samples we have to go instead to the second- and third-class writers, who *are* the historian's friends, since they were immersed in the expectations and norms common to the society they lived in.

The journey now to be made is in this respect historically advantageous, from one writer of the highest rank to a squadron of writers of other ranks. The evidence from now on will naturally look different. That is not just because it lacks the stamp of timeless poetry, but rather because it comes in a different form, that of isolated remarks, not complete poems (let alone epics). Only in two respects will the evidence be the same now as that in the previous section: it is narrative in form, and speaks by nuance. The object of the rest of this chapter will be to assemble *obiter dicta* ('remarks in passing') from narrative references to suicide, references such as betray a writer's moral evaluation of the act, even unwittingly. Narrators—by which I include anyone whose writing purports in the slightest degree to be historical, including romance—cannot avoid being occasional theologians, since an adjective here, a noun there, can betray who the good and bad characters are supposed to be and which are the good and bad outcomes. The sources I have used are mostly those which gave evidence in *The Violent against Themselves*. As it was with Dante just now, the same witnesses return to the witness box to tell us not about the suicides they thought they were writing about, but about themselves. What did *they* think?

The badness and madness of suicide

They thought suicide very bad. When story tellers do betray an opinion it is always negative. Sometimes suicide will be referred to simply as a 'bad death',

an expression which can even be used as a euphemism *for* suicide, though the predicate can also be explicit. It is put fairly plainly, for instance, in a late thirteenth-century Spanish version of a well-known story of the infanticide mother who tried to kill herself: 'she swallowed a spider'—this version says 'so that she should thus die *a bad death*'.[88] Again, in stories where a malefactor ends by killing himself in the manner of Judas in the Gospel, the miscreant's death is usually implicitly—sometimes explicitly—attributed to 'providence', as if seen as a just punishment.[89] Elsewhere a pejorative judgement can be implied by the behaviour of the normative characters in the story (the sort we now call 'ordinary decent people'). An example comes in the Conques Miracle book. A would-be suicide is there sullenly refused help by the local peasantry as if the refusers know, whether they say it or not, that the man's wish to poison himself is very wrong.[90] This pejorative treatment of suicide can occasionally—in narrative, as we found earlier in canon law—play sleight of hand with old texts. Thus an account in the thirteenth-century *Gesta Romanorum* is modelled on one in Seneca but subtly changes it in the following respect, that while in both recensions of the story a loving wife swears to commit 'suttee' if her husband dies, in the medieval version (not in Seneca) the wife's father declares the oath 'illicit'.[91]

From such a general depreciation of suicide to its assignment to the Devil was not a long step. On numerous occasions in narrative, suicide was seen as *par excellence* the Devil's speciality, though he comes into some kinds of report more than others. As can be expected, the Devil is most at home in religious sources, where suicide is very frequently portrayed as the Devil's work, sometimes with a sobriquet like 'The Old Enemy', 'The Enemy of the Human Race', or 'Satan'.[92] Nor was this a monopoly of religious sources. Even a town chronicler can speak of the Devil in this connection[93] and so, in fact, could court records: in the 200 or 300 English rolls examined in *The Violent against Themselves*, five were found, all coroners', where the fact of suicide is elaborated with a phrase like *per instigationem* [or *tentationem*] *diaboli*.[94] In view of the tendency of early canonists to assign suicide specifically to the Devil—as in the Pseudo-Theodore's clause 'De vexatis a diabolo', and Burchard of Worms's confinement of the phrase *diabolo instigante* to suicide alone among crimes[95]—we might conclude that the canonists' link of suicide to the

[88] *Castigos e documentos del rey don Sancho*, ch. 83; ed. Pascual de Gayangos. Biblioteca de autores españoles, 51 (Madrid, 1860), p. 216: 'a tanta desperacion la trajo el diablo, que como una araña mortal porque así moriese mala muerte'. Other versions: *The Violent against Themselves*, 272–4.

[89] Ibid., 315–16; cf. 483 (Judas). [90] Ibid., 319.

[91] *Gesta Romanorum*, §6; ed. H. Oesterley (Berlin, 1872), 280–1. Other editions: Tubach, *Index exemplorum*, no. 4671. Cf. Seneca, *Controversiae*, bk 2, ch. 2.

[92] Examples in *The Violent against Themselves*, 259, 269, 278–85, 300, 302, 304, 306, 314.

[93] Ibid., 103, (112). [94] Ibid., 153. [95] Above, pp. 253–7 and 191.

Devil was a legacy mainly of religious sources. While there may be some truth in that, there is nevertheless danger in tracing these influences in too literary a manner: most people could not read, and the notion that there might be a mischief-making spirit around did not have to wait on their instruction by lawyers.

If some accounts simply condemn suicide without further specification, others ascribe suicide explicitly to madness. By contrast to the Devil, madness was more at home in legal than religious records. In law-courts, after all, madness had a function to perform, that of excusing a suicide from posthumous punishment. Since this is the last function to expect from the Devil, madness duly takes over his role in many legal records, both English and French.[96] It is not, however, as if legal sources had a total monopoly, for miraculous writers too can associate suicide with madness, with or without conviction, sometimes varying it by a specification—as when a suicide was 'demented by love' or 'drunk' when the act occurred—but more often seeing it as just a question of 'frenzy' or 'fury'.[97] Since this mental condition was involuntary we are still, as with the Devil, firmly outside the moral category. That was the whole idea. A writer would ascribe a suicide to the Devil or madness to excuse the act as that of someone not quite in charge of his own will. This contrasts with the more strictly moral comments, which imply judgements on a suicide's specific misuse of his free will. A few examples will show in what ways.

Its folly, cruelty, desperation, and criminality

The moral judgements fall into three main categories and a few subsidiary ones. In the first, narrators describe suicide simply as 'stupid' or 'foolish'. This accusation is neighbour to that of madness and begs many of the same questions, but this time it puts suicide inside, not outside, the zone of moral responsibility (since a man can choose not to be foolish). The notion that suicide was folly was expressed in a big enough variety of ways to suggest we are not being tricked by mere cliché. Thus the narrator who described Henry of Le Dale's suicide, in Derbyshire in the 1180s, said Henry 'brought his life to a close with a voluntary, or rather, a foolish death [*spontanea quin potius stulta morte*]'.[98] Likewise, a twelfth-century Rocamadour wife, whose husband had teased her into suicide by mention of a jealous rival, was blamed by the Virgin for 'foulie',[99] while the husband of another wronged wife, the saintly

[96] *The Violent against Themselves*, esp. 160–71, 259.
[97] Ibid., 275, 264, 260, and 322–31. [98] Ibid., 3.
[99] E. Albe, ed., *Les miracles de Notre-Dame de Rocamadour* (Paris, 1907), 88: 'me a moult reprinse de ma foulie'. (This is a fourteenth-century version.)

'Margaret', a villainous husband who tried to persuade neighbours that she had killed herself, is represented as saying 'you see what my *fatuous* wife has done [*fatua mea mulier*].'[100] In Italy Fra Salimbene told in similar terms of a Franciscan friar who had thrown himself down a well moved by 'I know not what *folly* or desperation [still my italics]',[101] while a Dominican of the same period, tempted (by the Devil) to suicide, listened to 'saner' counsel as if the act itself were inherently insane.[102] This idea is especially palpable in literature designed to eulogize 'prudence' as the key to virtue. The thirteenth-century Middle High German poet Freidank, reproving the unhappy lover who turns precipitately to suicide, says outright that 'to do oneself an injury is an act of *stupid* [*tumber*] passion',[103] a note echoed by an anonymous contemporary and compatriot in a poem on *Melancholy* ('Der Kummer'), who says in a similar context: 'In truth I hold him a stupid [*tumber*] man / Who puts himself to death.'[104] Both writers find the 'stupidity' especially in the suicide's impetuosity, and this nuance too is found elsewhere in literature, of various kinds and in various moral contexts. One source on early Franciscan history speaks of a friar who contracted leprosy and 'hanged himself because of impatience',[105] while the fifteenth-century English morality *Amorys and Cleopas* (by John Metham, *c.*1450) speaks of the double suicide of its Romeo and Juliet eponyms as 'wrechydnes and foly'.[106]

A second distinct critical idea is that suicide is somehow unbefitting, behaviour incongruent to a human being. This view comes near to the one we heard earlier in Grosseteste and Aquinas, and in more than one way in Dante, that suicide is against natural law. The present view—as is to be expected in the world of occasional theology—is nevertheless both earlier and vaguer, examples being fairly frequent from the eleventh century onwards. One is a story, retold by Peter Damian, of a busy cleric who drowned himself in a bucket of water: the cleric *se feraliter enecavit*—'killed himself ferociously', or 'in the

[100] London, British Library, MS Add. 14833, fol. 137r. Cf. Herbert, *Catalogue of Romances*, no. 90, p. 589; Tubach, *Index exemplorum*, no. 5282.

[101] *The Violent against Themselves*, 118.

[102] Stephen of Bourbon, *Anecdotes historiques*, ed. A. Lecoy de la Marche (Paris, 1877), §226, p. 195.

[103] *Bescheidenheit*, ed. H. E. Bezzenberger (Halle, 1872), p. 126, (Stanza 66) lines 22–3: 'Es dunket mich ein tumber muot, / Swer im selbe schaden tuot.'

[104] *Der Kummer*, ed. G. Rosenhagen, *Kleinere mittelhochdeutsche Erzählungen, Fabeln und Lehrgedichte*, 3: *Die Heidelberger Handschrift cod. Pal. germ. 341*. Deutsche Texte des Mittelalters, 17 (Berlin, 1909), p. 29, no. 40, lines 9–11: 'swer dar in vert mit kumber, ver war den han ich tumber / danne der im selben tut den tot.'

[105] *Chronicon xxiv generalium*, p. 4, as in *Analecta Franciscana*, 4 (Quaracchi, 1906), 178, lines 16–17: 'ob impatientiam se suspendit'.

[106] *Amorys and Cleopas*, line 1768; ed. H. Craig, Early English Text Society, original series, no. 132 (London, 1916), 65. Cf. Metham's comment, ibid., lines 769–70: 'Thow that in eld tyme paynymmys yt yd for a memoral, / I yt commend ryght noght at alle.'

manner of a beast [*fera*]'.[107] The conception of suicide as an act of ferocity, as we heard uttered also by Dante's Pier della Vigna, may also be implied in the rhetorical maxim enshrined in Roman law that the man 'who has not spared himself will much less spare anyone else'.[108] Cruelty, a quality close to ferocity and equally at home in the world of injuries one person does to others, can also apply to suicide, being present in a letter of St Augustine[109] and still there, eight centuries later, in Caesarius of Heisterbach's story of the nun who tried to drown herself in the Rhine (she was blamed by the other nuns, when they rescued her, for her act of 'cruelty'),[110] and (later still) in Dante commentaries.[111] In the late fifteenth century the same word would be inserted into a Plutarch *Life of Cato* to describe Cato's suicide: where Plutarch describes Cato's elaborate suicide with admiring awe, the anonymous Italian rubricator has added *Crudelis in Se Cato*: 'Cato is cruel to himself.'[112]

Among medieval narrators who employ the idea that suicide is unbefitting the commoner implication is nevertheless that what it does not 'befit' is not humanity as such, but a particular human status. The wronged wife of Rocamadour, mentioned a moment ago, killed herself *sexus sui immemor*, as if suicide were more a male than a female act, as indeed it was.[113] Equally clear, and rather more frequent, is the suggestion that suicide is childish, that is, unbefitting a grown man. Anselm of Laon (†1117) was more than an occasional theologian, but he was making an occasional type of observation when he compared those born mentally deficient, and who might try to kill themselves, to *parvuli*, as if this kind of non-culpable irrationality were appropriate to small children.[114] The notion that the act was puerile can also be found in imaginative literature. The twelfth-century verse romance *Floire et Blancheflor* tells of a lovesick youth, told by his mother not to be an 'infant' when he proposes to kill himself.[115] Yet further examples appear in miracle stories and accounts from legal documents. In that bishop's rescript about the attempted suicide of a monastic novice at Missenden, for example, in 1297, the bishop describes the novice as *quasi pueriliter seviens in seipsum*: 'raging against himself in a puerile way'.[116]

[107] *De variis miraculis*, ch. 8; *Pat. lat.*, 145. 582. [108] Above, p. 175.

[109] *Epist.* 204, §1; ed. A. Goldbacher (Vienna and Leipzig, 1911), 318.4. For further instances of 'occasional theology' of this kind in St Augustine, see pp. 108–9 above.

[110] *The Violent against Themselves*, 338.

[111] e.g. Da Buti, *Commento sopra la Divina Commedia*, ed. C. Giannini, vol. 1 (Pisa, 1858), 351: 'per feritade e crudeltà d'animo.'

[112] London, British Library, MS Add. 22318, fol. 201^{v}. See Plate 4(b).

[113] Ibid., 272; and n. 99 above.

[114] *Liber pancresis*, §58, quoted in O. Lottin, *Psychologie et morale aux xii^{e} et xiii^{e} siècles*, 5 vols (Louvain and Gembloux, 1942–60), vol. 5 (1959), 54.

[115] Lines 1017–18; ed. J.-L. Leclanche (Paris, 1983), p. 44: 'Fius, fait ele, molt es enfans / quant de ta mort es porquerans.' [116] Below, p. 403.

The suicide, then, if his act is not to be written off as insane or diabolically inspired, can be described both as foolish and as behaving in an unmanly and, even more (if it is a woman), an unwomanly, way, as also like a child. Thirdly, among directly moral stigmas, and more specifically, the suicide is conceived as guilty of a particular sin, an especially deadly one, despair. Among condemnatory *obiter dicta* the association of suicide with despair is the commonest. That remark of Fra Salimbene's on the suicide friar quoted just now alluded to his 'folly *or despair* [my emphasis]'.[117] The Dominican Thomas of Chantimpré, likewise, often used the terms 'despair' and its derivatives in a context strongly suggestive of suicide.[118] Vernacular writers make the connection even plainer by regularly using vernacular offshoots of *desperatio* in a suicidal ambience, so much so that words like *disperazione* and *desespoir* could often actually *mean* suicide, a usage which had the double advantage of euphemism and of joining the unmentionable act with a known—and mentionable—sin. (Exactly what the sin of despair consisted in will be the subject of Chapter 11.)[119]

I said these critical allusions fell into three main categories and a few subsidiary ones, and let us now look at the latter. They mainly consist of the light employment of potentially weighty ideas. That definition already includes some instances of the last usage, despair, and also extends to the concept of homicide. The same Thomas of Chantimpré speaks of certain suicide prisoners as having set 'homicidal hands on themselves', his adjective (*homicidas*) picking up both the 'Thou shalt not kill' anti-suicide argument of Augustine and, more immediately, the usage of contemporary French law.[120] Another criticism can attribute suicide to vainglory, as in some Roman law commentary (with its references to *iactatio*), and in a story by Caesarius of Heisterbach, who tells of a man who jumped from a tower to achieve 'honour' but was told by *prudentiores* bystanders—Aristotelians whether they knew it or not—that there could *be* no honour in such an act.[121] That Caesarius's bystanders echoed a philosophical doctrine is just one example of the vestiges to be found among storytellers of positions expounded by the learned, confirming the observation that certain ideas were shared by persons inside and outside schools, however different the scale of their presentation. The handful of pejorative epithets about suicide—'foolish', 'cruel', 'unbefitting',

[117] *The Violent against Themselves*, 118.
[118] Ibid., 35–6. [119] See esp. pp. 385–91 below.
[120] *The Violent against Themselves*, 299, and above, pp. 33–4.
[121] *Dialogus miraculorum*, dist. 5, ch. 35 [ed. Strange, vol. 1, pp. 318–19]. The details half suggest that the man may have been an early experimental parachutist (his own large cloak—*cappa*—being the parachute). But his act was universally seen as desperate and demoniacally inspired, and the first finders of his corpse saw 'omnia viscera eius effusa' (p. 319). For the question of honour and suicide, cf. Aristotle, *Nic. Ethics*, bk 3, ch. 7.

'inhuman', and so on—form one kind of illustration, each suggesting a distinct idea, capable of elaboration, whether or not given it.

Of other such ideas, linked with suicide, two, in particular, deserve attention on a bigger scale than any so far. Their intimate association with suicide, the curious histories of both, their universality of social range and, above all, their propensity to turn up whenever the subject is mentioned, make these a subject on their own, or rather, two subjects: one is historical, one moral, and they are different. The fortunes of the two ideas were often intertwined, but that (I shall argue) is just another curiosity about the character of each, since they found themselves grouped together only as travellers do when the same errand brings them to the same hostel. Of the two, each had its own character and remains capable, independently, of leading the historian into almost every area of medieval culture. So they must be studied separately. Hence the two following chapters, one on the historical idea, one on the moral. Let us now creep up silently, then, on the first of the ideas, grouped as it usually was with many others; and, having separated it off, see into what cultural declivities it will lead.

10

Judas

The last chapter identified a form of moral expression which, taking most of its idiom from the authentic tradition of theology, obeyed weaker rules, rules owing what force they had more to instinct and predisposition, public and private, than to the inspired interpretation of Scripture. I called this form of expression 'occasional theology' and it was introduced with a purpose: that of opening a way to the assessment of two concepts which lodged at the core of medieval thought about suicides. These concepts are best presented in a picture. It is shown in Plate 8. This depicts the illuminated frontispiece of a commentary on Gregory IX's *Decretals*, made in 1354 and now in the Ambrosian Library in Milan. The frontispiece shows an allegorical representation of the principal virtues and sins. The artist, the well-known miniaturist Nicholas of Bologna, has depicted each virtue as conquering the corresponding sin. The virtues are shown in the traditional way as purely allegorical figures, if with the peculiarity—no doubt apt in a book meant for lawyers—that the virtues are shown not by the usual female figures but by men in lawyers' garb. A more significant peculiarity is that, to represent the vices or sins, Nicholas has chosen historical characters. *Infidelitas*, at the feet of glorious *Fides*, is represented by 'Arius hereticus', the Arius condemned as a heretic at the Council of Nicaea; *Malignitas*, at the feet of *Charitas*, by 'Erodes iniquus', the wicked king Herod; *Injustitia*, at the feet of *Justitia*, by 'the wicked Nero', and so on. Below the feet of 'Hope' (*Spes*) is a man with a rope round his neck labelled 'Judas desperatus': 'Judas who despaired'.[1]

[1] Milan, Bibl. Ambrosiana, MS B 42 Inf., fol. 1r. Reproduction supplied by the Medieval Institute of the University of Notre Dame, Indiana. Literature: P. d'Ancona, *La miniature italienne au x^e^ au xvi^e^ siècles* (Paris and Brussels, 1925), pl. 28, pp. 19–33; E. Kirschbaum, *Lexikon der christlichen Ikonographie*, vol. 2 (Freiburg, 1970), 444–8, on p. 446; A Conti, *La miniatura bolognese, Scuole e botteghe, 1270–1340* (Bologna, 1981), 10–14 etc. The miniaturist is more precisely known as Niccolò di Giacomo da Bologna.

Judas Desperatus

Contemporary users of this copy of the *Decretals* would no doubt have paused to admire the elegance of Nicholas's miniature and felt quiet reassurance to see so many cardinal virtues dressed like their own profession. The pleasure is unlikely to have been flawed by any misgiving that the first pagan virtue, Prudence, should have assumed the presidency of a gathering that included the Christian virtue of Faith. Stoic jostling of Christian virtues (which that is) was normal in schemes of this kind. Nor, probably, would they have paused long over the bedraggled figure of Judas in the bottom right-hand corner or wished to reflect on the implications of his presence there. But implications there were, and the present chapter will be about them. For the figure of *Judas desperatus* invokes the rule we have learned from the French medievalist, Jacques Le Goff: 'Recherchez l'anomalie!' The anomalies buried in the miniature invite patient research, during which they will, I hope, emerge as pregnant historical evidence.

A brief reflection on Plate 8 will show how the research must proceed. The image of Judas there has the three following implications:

1. That Judas committed suicide;
2. That he was guilty of the sin of Despair; and
3. That suicide, being an act of Despair, is the antithesis of the theological virtue of Hope.

In accepting this triple equation without demur, a reader of the *Decretals* in 1354 would have been typical of an old and widespread orthodoxy, one represented, in different ways, in most surviving testimony from the period.

The use of historical figures as allegories—the device employed in this miniature—had begun long before Nicholas of Bologna, growing originally out of biblical exegesis—Abraham standing for faith, and so on. Forty years before Nicholas, Dante had used the same technique to good effect in the *Divine Comedy*, where he recruited his dead to serve as allegories of sins and assigned them to particular zones of Hell, Purgatory, or Heaven. Dante's public was therefore familiar with the device, and Nicholas of Bologna was on safe ground in making it his own—safe because everyone agreed with him: King Herod *was* malign; Nero *was* unjust. No one was going to deny that. Nor would anyone deny that Judas, the arch-traitor of the Gospel, had hanged himself, nor that in doing so he had performed an 'efficacious sign' proper to Despair, the sin antithetical to Hope, nor that Judas had duly gone to Hell for it. Not only, in this view, was Judas cursed. He was cursed wrapped

up in his suicide. Judas embodied, in the manner of all efficacious signs, the curse that attached to the very act that had ended his earthly life.

The associations of Judas with suicide, suicide with the sin of despair, and the sin of despair with Judas, are three separate ideas. Since all three were implied in Nicholas of Bologna's image of *Judas desperatus*, the latter can be said to have been a cord with three separate strands. Cords of this kind were common in medieval legend: compounds, that is, of three separate historical beliefs, fused into a single person or event to create a legend which, whatever liberties might have gone into its making, had greater psychological and social power than the elements would have had singly. It is easy to think of examples, like the legend of the repentant prostitute St Mary Magdalen, which merged two biblical figures, neither explicitly a prostitute, and added prostitution as a third element.[2] Another is the legend of St Denys the Areopagite, who was made up from three separate historical men (St Paul's convert who had lived in the first century, an apostle of Paris who had lived in the third, and a sixth-century Neoplatonist who wrote a mystical book often read), where combination gave the University of Paris the potent conviction that, because 'St Denys' had converted Paris, the University was apostolic, intellectual, and mystical all at once.[3] The three-stranded belief buried in Nicholas's miniature did the same with Judas. Nicholas did not invent it, nor would he have painted it if he had; but his painting gave the belief a powerful expression.

Chapters 10 and 11 will distinguish the three strands of the Judas legend, showing how each had its own shape and historical significance and how they came to be bound together. Contemporaries, it will be found, were victims of a self-imposed *trompe l'oeil*, one which left behind, by the sheer force of their acceptance of it, a potentially misleading guide to historians. When the elements are separated and examined on their own, they will reveal to us not only the historical truth behind each, but the reasons they were confused. Untwined, confused legends like this one are historical documents, more revealing than many with more positive pretensions; because they reveal, once dismembered and analysed, tensions and conceptual priorities which could find expression by no other route than such confusions, and would hence, to later historians, be invisible but for the kind of analysis these chapters will attempt.

[2] G. Constable, 'The interpretation of Mary and Martha', in the same author's *Three Studies in Medieval Religious and Social Thought* (Cambridge, 1995), 1–141, esp. 5–11, with literature.

[3] R. J. Loenertz, 'La légende parisienne de S. Denys l'Aréopagite', *Analecta Bollandiana*, 69 (1951), 217–37, chronicles the fusion of first two elements; on the addition of the third, see J. Leclercq and others, *La spiritualité du moyen âge* (Paris, 1961), 119, 296–8.

Judas the Suicide

The analysis begins with the suicide. I should say 'alleged' suicide, for reasons to be explained in a later section of this chapter. But no western divine in the patristic or medieval period would or could have dreamt of attaching the word 'alleged', since Judas' suicide was one of the unquestioned—and to them unquestion*able*—facts about him. We have already heard acknowledgements of this from a series of authorities: Jerome, Augustine, Cassian; Walafrid Strabo, Paschasius Radbertus, Gratian; Aquinas; and a host of other writers in their epochs and categories.[4] To throw light more closely on this particular Judas tradition and show how it spanned all medieval centuries, it will be best to rehearse, and in some cases repeat, a few illustrative examples. They can start with that ninth-century pope, Nicholas I, who gave instructions to missionaries in Bulgaria, and made provision for the suicide as the man who, 'imitating Judas, makes himself his own homicide'.[5] An anonymous hagiographer, who made the assassin of the Merovingian Dagobert II kill himself, says he killed himself 'like Judas'.[6] A powerful dark-age testimony is given by the semi-magical formulae used since Antiquity for curses, and in the early Middle Ages commonly for excommunications; formulae which include among the catastrophes to be wished on the victim that he 'may die the death of Judas' (that is, when that particular expression is used, commit suicide).[7] The association of Judas with suicide continues undiminished into the central and later Middle Ages. The author of the Laon *Miracula*, telling of a thief who hanged himself in Totnes in 1113, said he had rarely heard of such a miracle 'since the time of Judas'.[8] Gratian perpetuates the same association. *Laqueo traditor periit: laqueum talibus dereliquit*: 'the traitor perished by the noose, and bequeathed the noose to his like': so ran an allusion to Judas' suicide taken, from St Augustine, into the *Decretum*.[9] In the thirteenth century, the resemblance of St Francis to Christ was held to extend also to this, that apostasy to Francis by a recalcitrant friar was divinely 'pun-

[4] Examples on pp. 98–9, 108, 196 above. [5] p. 268.

[6] F. Graus, *Volk, Herrscher und Heiliger im Reich der Merowinger* (Prague, 1965), 403–6.

[7] L. K. Little, 'Formules monastiques de malédiction aux ix^e^ et x^e^ siècles', *Revue Mabillon*, 58 (1970–5), 377–99, esp. 392, 395. Cf. the same author's 'La morphologie des malédictions monastiques', *Annales E.S.C.*, 34 (1979), 43–60, on esp. 46, 48; and (for a wider range of phrases) *Benedictine Maledictions* (Ithaca, NY, and London 1993), index on p. 293. For early examples of Judas curses, on Roman tomb-inscriptions (starting in the 2nd century ad) see F. Cabrol and H. Leclercq, *Dictionnaire d'archéologie chrétienne et de liturgie*, 8 (Paris, 1928), cols 272–4; and for their survival in the later Middle Ages: A. Taylor, 'Judas Iscariot in charms and incantations', *Washington University Studies*, 8 (1920), 3–17, esp. 13–16.

[8] *Miracula S. Mariae Laudunensis*, bk 2, ch. 20; *Pat. lat.*, 156, 985.

[9] Pt 2, Causa 2, quaestio 5, ch. 10; ed. Friedberg, *Corpus iuris canonici*, vol. 1, col. 934, with references.

ished' by suicide—a reference to the fate of Judas.[10] An archbishop of Pisa, preaching in the 1250s to the City Council (whom he was accusing of treachery) referred as a matter of course to 'Judas, who later hanged himself'.[11] Again, an early fourteenth-century prayer book, inverting the wishes of the old malediction but with the same assumption about Judas, portrays a good death as the antithesis of that of Judas—with an illustration of Judas' suicide to drive home the point.[12] The strength of the equation in ecclesiastical literature is reinforced by its presence also in vernacular. The thirteenth-century romance *Mai et Beauflor*, known in French, German, and other languages, has bystanders dissuade two noblemen from suicide because 'it would be a lasting shame if you become thus companions of the traitor Judas.'[13] The fourteenth-century French epic *La chanson des quatre fils Aymond* likewise has a man dissuaded from suicide with 'I beg you, do not imitate Judas.'[14] So it goes on.

The history of Judas in sculpture, glass, and miniature painting drives the same points further home. From the earliest surviving representations of Judas he is principally shown, not *qua* uncertain disciple, *not* qua traitor in the garden of Gethsemane, but as a suicide. The Frontispiece of this book shows an ivory box carved in Rome, probably between 420 and 430,[15] carrying the earliest known narrative depiction of Christ's Passion. The hanging figure of Judas occupies nearly as much space as that of Christ and is set in counterpoint to it, as if there were two ways of dying, bad and good. This character of Judas' death as 'the same but different' from that of Christ, was enough by itself to guarantee the endurance of the image of Judas *qua* suicide. Vestiges of the minor but hardy theme survive, again, from throughout the Middle Ages. Kirschbaum and others have found it in Carolingian Passion sculpture in the ninth century.[16] There are occasional hints in cathedral tympanums and their miniature counterparts in the small ivories emanating from fourteenth-century Paris.[17] The comparison is all but explicit in an idiosyncratic Book of Hours of *c.*1450, of north-eastern French origin, where an intricate miniature

[10] Bartholomew of Pisa, *De conformitate vitae b. Francisci ad vitam Domini Jesu nostri Redemptoris*, ch. 8, §2 (Quaracchi, 1906), 178.13–18, recording an old tradition. Cf. *The Violent against Themselves*, 339.

[11] Florence, Bibl. Laur., MS Plut. 33 sin. 1, fol. 128va (= Federigo Visconti, Sermon 94).

[12] Reproduced in Schmitt, 'Suicide', 16, with references there and on p. 2, n. 79.

[13] Quoted by F. P. Knapp, *Der Selbstmord in der abendländischen Epik des Hochmittelalters* (Heidelberg, 1979), 196.

[14] Ibid., 103.

[15] I owe expert advice on the sculpture, and help in procuring this illustration of it, to Dr David Buckton, Curator of Early Christian and Byzantine Antiquities in the British Museum. See Notes on Plates, p. xii.

[16] Kirschbaum, *Lexikon*, 2, 445; Dinzelbacher, *Judastraditionen*, 21–2.

[17] See Plate 10(a).

of the Crucifixion stands over an image of the self-hanged Judas in an initial, immediately below (Plate 10(b))[18].

In art, the pairing of Judas' suicide with Christ's crucifixion only strengthened a readiness, originating elsewhere, to see suicide as Judas' trademark, one strong enough to persuade biblical 'typology'—the matching of themes in the Old and New Testaments—to pair Judas with the suicide Achitophel.[19] The force of the association meant the suicide could be depicted on its own, the image alone sufficing for contemporary observers to identify whose death it depicted. This is the case with the sculpted capitals in the main churches of Autun and Vézelay, both datable to around the third decade of the twelfth century. One in St Lazaire at Autun (now in the sacristy museum), more or less directly attributable to the cathedral's principal sculptor, Giselbertus, depicts a figure being hanged by two devils (Plate 9(a)). The figure is unlabelled, and its context in the cathedral gives us no guarantee that it is meant to be Judas, though the suicide–Judas connection has been strong enough to ensure it has commonly been taken as such. The suicide is naked, in token of disgrace and impotence. The devils hang him as if his own will played no part in the suicide, the devils' role there echoing both the intimate association of the Devil and suicide we have seen in contemporary legal and narrative sources, and, perhaps also—if this *is* meant to be Judas—the fatalistic motif in the Judas legends (not, let it be said, Matthew 27: 3–5). That this Autun death is a hanging is shown not only by the prominence of the rope and the posture of the devils but (as in the British Museum ivory) by the twisted position of the victim's head and by the distance of his feet from the ground.

The same lesson is learned at Vézelay (Plate 9(b)). There, the sculptured capital in the basilica of St Mary Magdalen is perhaps a year or two earlier than that at Autun, but reflects the same indirectly Cluniac school. In Vézelay too, it is the suicide that has encouraged generations of observers to identify the figure as Judas. He is still naked, but now there are no devils. The hanged man's tongue protrudes—a didactic detail perhaps intended to compensate for the absence of that other tell-tale detail of a hanged man, the distance of his feet from the ground (which detail might have been avoided here for structural reasons, to allow the capital to perform its task of holding up the arches: the Vézelay sculptor is thought by one school deliberately to have avoided gratuitous weakening of a capital by breaking verticals on its outer surface).

The message of both Autun and Vézelay, in the present context, appears to

[18] Goetz, 'Hie hencktt Judas', in *Form und Inhalt. Kunstgeschichtliche Studien, Otto Schmitt zum 60. Geburtstag* (Stuttgart, 1951), 103–37; on pp. 133–4. A selection of manuscript and sculpted representations of Judas' death, including those shown here in Plates 9(a)–(d) and further illustrating the same themes, will be found in A. K. Cassell, *Dante's Fearful Art of Justice* (Toronto, 1984), plates 15–22, 25–7.

[19] See Plate 6(a).

PLATE 1. The barrel ritual. A suicide's body is dragged before being put in a barrel for disposal in a river. Luzerner Bilderchronik, early 16th century.

PLATE 2. 'Felonye' in *Le roman de la rose* (Lines 152–5). French, early 14th century.

Et cilz ueez nen eſt conſentieurs
ars elle q̃ ſon dueil menoit
on couſtel en ſa mai tenoit
Repon que mais ne le beiſt
R ne pour ſon ferm le preiſt

PLATE 3. Lucretia in *Le roman de la rose* (Lines 8598–8602). French, *c.*1380

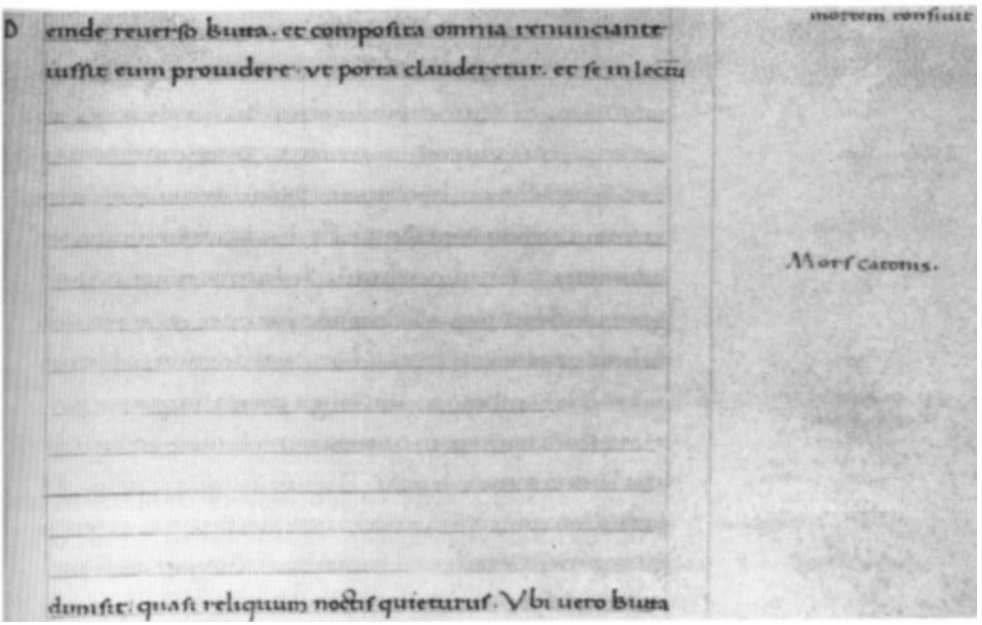

inde reuerso Iuna. et composita omnia renunciante
iussit eum prouidere vt porta clauderetur. et se in lectu
Mors catonis.
dumsit: quasi reliquum noctis quieturus. Vbi uero Iuna

PLATE 4. Cato (a) the noble Roman and (b) the suicide. An illuminator's taboo? Plutarch, *Life of Cato*, Latin translation, northern Italy, *c.*1455.

PLATE 5. The suicide king of the Psalter. Illuminations of the initials of Psalms 51/2 and 52/3. (a) Bible. English, late 13th century. (b) Psalter. Ghent, *c.*1320–30. (c) Psalter made for Christchurch, Canterbury, soon after 1320. (d) Psalter. English, *c.*1325–35

PLATE 6. Suicide in typology.
(a) Achitophel with Judas as 'type' and 'antetype'. *Bible Moralisée*, Paris, 13th century. (b) Razias. *Bible Moralisée*, Paris, 13th century.

PLATE 7. The punishment of Pier della Vigna in Hell (Dante, *Inferno* 13). The Holkham Dante, probably made in Naples, 1340–5.

PLATE 8. Judas desperatus. Detail from Nicholas of Bologna's frontispiece to a commentary on Gregory IX's *Decretum*, 1354.

PLATE 9. Suicide in church sculpture. (a) Devils hang a suicide: Judas? (Autun) (b) A suicide self-hanged: Judas? (Vézelay)

(c)

(d)

PLATE 9. (c) Judas 'bursts in the middle' (Rouen) (d) and (e) Judas and his thirty coins (Freiburg im Breisgau)

(e)

PLATE 10(a). Judas for the citizen, in miniature in a French ivory, *c.*1350. above, detail: Judas; below, the same, showing position on the tympanum.

(b)

PLATE 10 (b) Judas' suicide deliberately juxtaposed with Crucifixion. Book of Hours, French, 15th century.

PLATE 11. Judas for the priest. Illumination of a Commentary on Matthew's Gospel, *c.*1397.

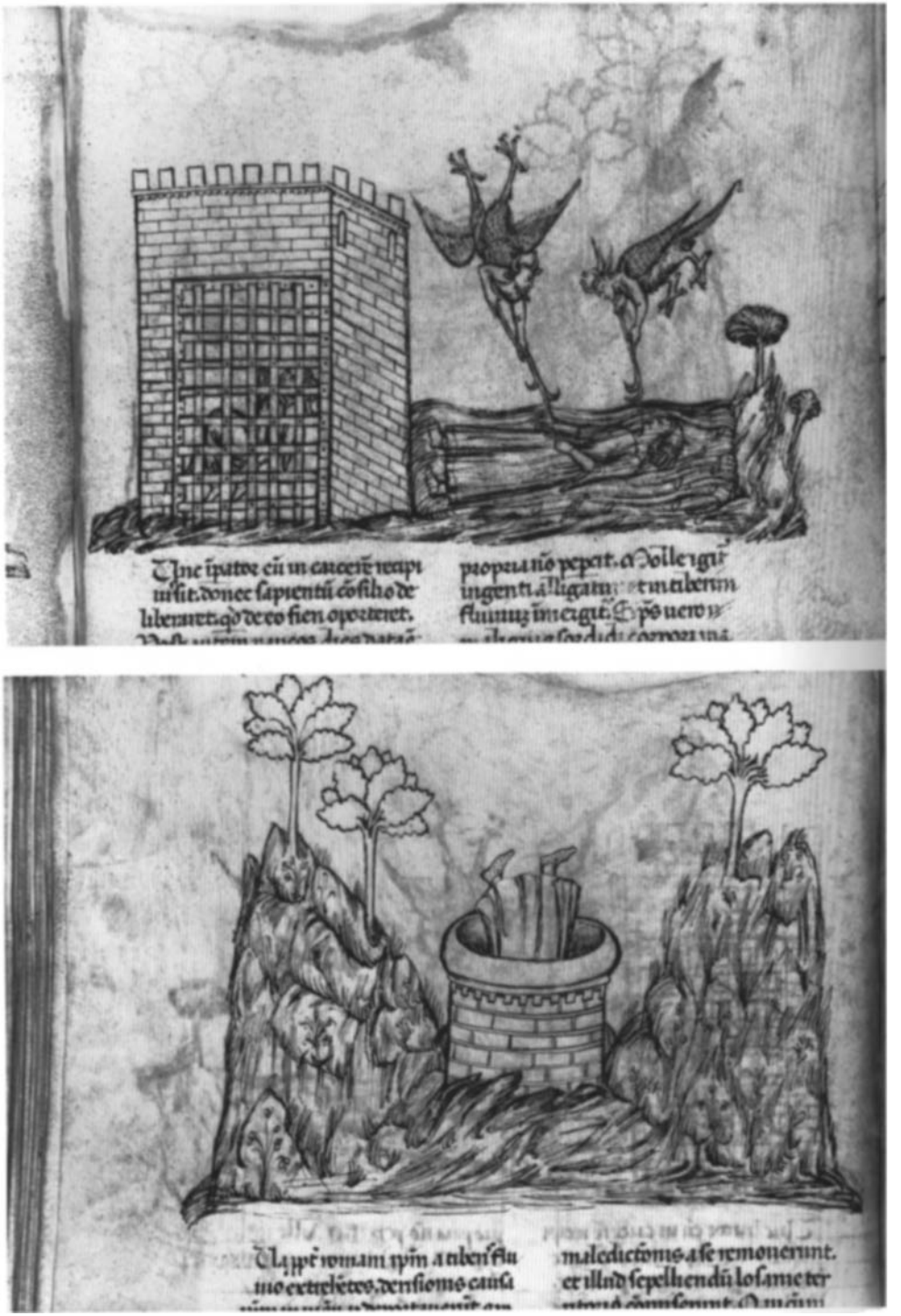


PLATE 12. The suicide of Pontius Pilate. (a) On the left Pilate stabs himself in prison. On the right one devil thrusts Pilate's corpse into a river while another prepares to extract it. (b) The corpse is finally thrown into a well among the Alps.

PLATE 13. Two versions of Herod's suicide (a) An illuminated page preceding the Eadwine Psalter, Canterbury, *c.*1147. (b) A French copy of the page, made soon afterwards for another psalter.

PLATE 14. Herod's suicide. An English *Life of Christ*, *c.*1200.

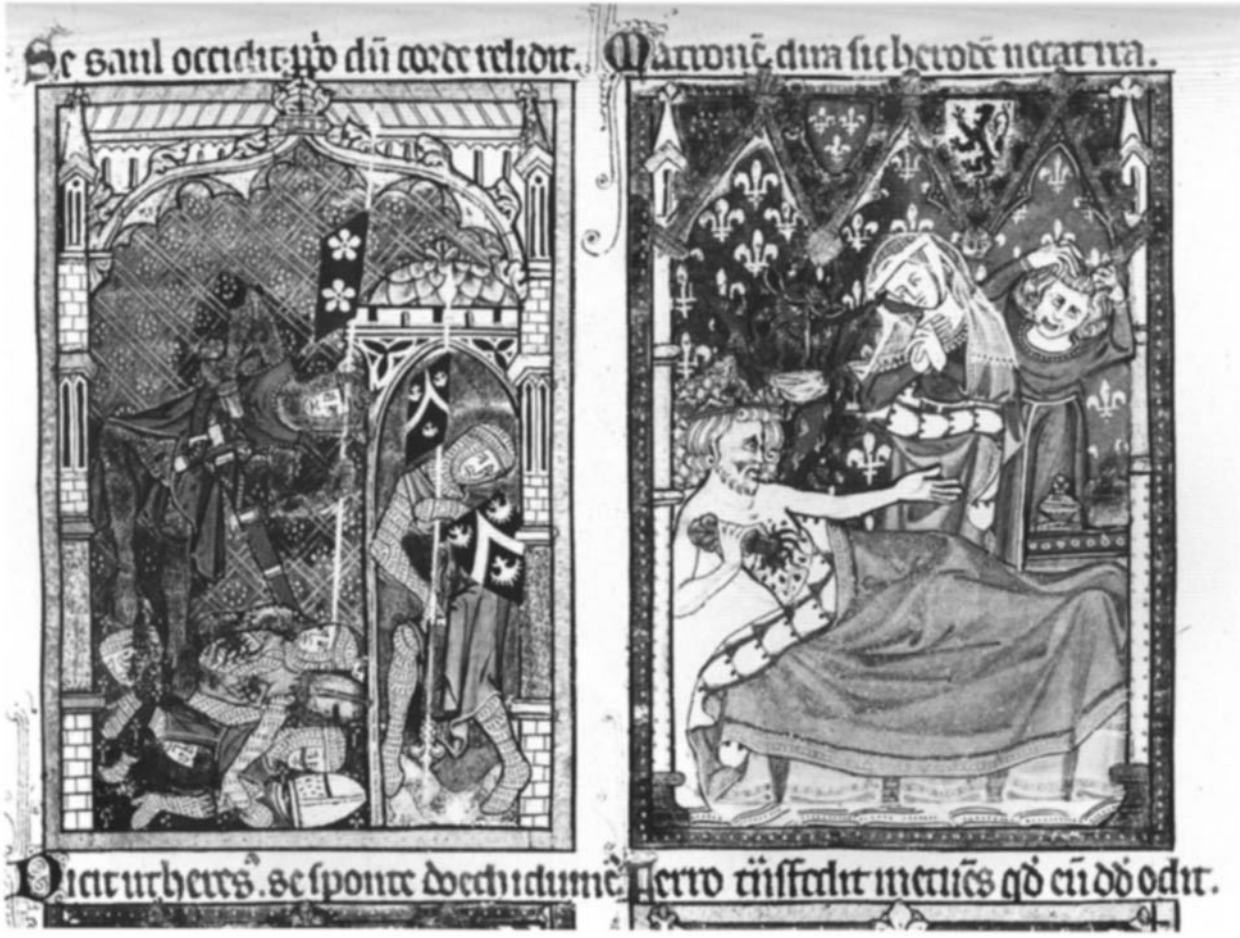


PLATE 15. Herod's suicide as a typological 'antetype', in the Peterborough Psalter, *c.*1300.

PLATE 16. Herod's attempted suicide forestalled. Fresco in the Stiftskirche, Lambach, Upper Austria, 11th century.

be that suicide alone was enough, in the right context, to identify Judas. Again, representations just beyond the end of the Middle Ages can suggest the same: a book of poems on the Passion, made in Paris around 1520–30, carries a hanged Judas on its title-page as if echoing that old juxtaposition of suicide and Crucifixion as the same but different; as also, perhaps, reflecting a rising public consciousness of suicide in the early sixteenth century.[20]

I have referred only to those Judas images which limit their depictions of him to his suicide, as distinct from other traits the Gospels attribute to him. But the strength of the suicide–Judas linkage is shown by its robust survival even when the other traits were added. Their addition belongs to a complex process which it is not my aim to retrace, but which began in earnest during the twelfth century about the time of the Autun and Vézelay sculptures, and can be assigned to three distinct factors at work on contemporary minds. One, an acknowledged feature of the period and an important root of its religious movements, was what has been called an 'evangelical awakening', that is, a growing consciousness of the Gospel,[21] which could not fail to inspire some devotees to think more about the Gospel arch-villain. Two other factors adapted Judas to contemporary economic and social concerns. One was money, or rather money-mindedness, fruit of the commercial revolution. Had not Judas sold the Saviour for silver? He stood as an awesome example of the avarice of which moralists spoke with increasing shrillness in the late twelfth and thirteenth centuries.[22] Connected with both the first two factors was a third. As western Europeans defined themselves more articulately as Christians, hostility grew sharper towards non-Christians, especially Jews. Together with Judas' proven avarice, the likeness of the words 'Judas' and 'Judeus' tempted the less scrupulous 'occasional theologians' to see Judas as the Jew *par excellence*.[23]

This triad of influences did not all work at once, nor were they the only influences to bear on beliefs about Judas. But they engendered features in the Judas legend which combined neatly with his suicide and gave the latter, as an abstract idea, still more moral weight to bear. Judas the Jew had tried to give back his thirty silver pieces but his repentance was insincere and the silver pieces clung to him and his memory. Pilgrims in the late Middle Ages claimed actually to have handled 'Judas groats'. Stories circulated—originating in the

[20] Goetz, 'Hie hencktt Judas', 136–7, cf. 105–8.

[21] The title of a famous essay, 'Le réveil évangelique', by M.-D. Chenu, *La théologie au douzième siècle*, 2nd edn (Paris, 1966), 252–73.

[22] L. K. Little, 'Pride goes before Avarice: social change and the vices in Latin Christendom', *American Historical Review*, 76 (1971), 16–49; and my own slightly different interpretation of the evidence in *Reason and Society*, 59–80, esp. 77–8.

[23] Goetz, 'Hie hencktt Judas', 133–4; Dinzelbacher, *Judastraditionen*, 79–81, with a warning (on pp. 80–1) not to exaggerate this motif.

east but known in the west—of where the infelicitous silver had come from and where it went to.[24] Artists found the silver pieces easy to depict. As for the unique degree of 'Jewishness' in Judas—a figment of Christian imagination if ever there was one (since the figure of Judas was unknown in Jewish tradition until *c.*1100 and only entered it, in a predictably heroic posture, in reaction to Christian development)[25]—that too was easy for an artist to illustrate. Judas would be given yellow clothes, yellow being a colour prescribed for Jewish garb with special severity after 1300, and associated with Jews closely enough for miracle plays to use yellow costumes to indicate Jews.[26]

The significance of these features in a study of suicide, and of Judas' suicide in particular, is that, though important, they did not displace suicide as Judas' trademark, but rather augmented it as accessories. One consequence was that, far from escaping from Judas' curse as his bad character was elaborated and more evil features brought into the reckoning, suicide now bore the additional weight of the vices most abhorrent to self-conscious Christians of the crusading age, namely avarice and infidelity. Suicide was thus trebly cursed, in a development which can be approximately illustrated from church sculpture. In the tympanum of the southern portal of Rouen cathedral, made in the late thirteenth century, Judas' suicide is depicted more faithfully to the New Testament than at Autun or Vézelay. (Plate 9(c).) Judas now wears a robe, but the robe parts to reveal the bursting-out of his entrails related in Acts 1: 18. The inconspicuousness of the rope is offset by the obvious distance of Judas' feet from the ground and by the tell-tale twisting round of his neck. The suicide image at Rouen, already part of an artists' tradition when the Rouen sculptor was at work, would continue in the same tradition, so that essentially the same images will appear, as routine, in fourteenth-century Paris ivories.[27] Plate 10(a) shows an example from *c.*1350.

At Freiburg im Breisgau meanwhile, the tympanum over the main door of the cathedral shows newer motifs (Plate 9(d)). The thirty pieces of silver (they number *exactly* thirty, as we should expect in a city where burghers took pride in their own accounts) are prominent near Judas' legs. His 'Jewishness' would have been signalled on the original tympanum (which was painted), by the yellow colouring of his robe. The suicide stands out no less starkly, the iconography now traditional: Judas' guts burst through a slit in the robe, his feet high from the ground. The Devil at Freiburg is shown not as cause of the

[24] P. Lehmann, 'Judas Ischarioth in der lateinischen Legendenüberlieferung des Mittelalters', *Studi Medioevali*, ns 2 (Turin, 1929), 289–346, on pp. 294–5.

[25] B. Heller, 'Über Judas Ischariotes in der jüdischen Legende', *Monatschrift für Geschichte und Wissenschaft des Judentums*, 76, ns 40 (Breslau, 1932), 33–42.

[26] Dinzelbacher, *Judastraditionen*, 25–6.

[27] Cf. Goetz, 'Hie henckt Judas', 108: '. . . recht häufig . . .'

suicide but rather as its beneficiary, as he bears away Judas' soul—customarily shown as a naked child—on his staff.

The next chapter will consider quite a different kind of circumstance that shaped Judas' memory, namely the Church's campaign, stronger from the thirteenth century, to encourage sacramental confession. Judas will then be drawn as the one who did not confess properly and suffered condign punishment.[28] Yet further Judas traditions stretch away into the distance, one after the other. In the third volume, *The Mapping of Mental Desolation*, I hope to mention just one of them, which portrays Judas' fate as predetermined before his birth: a legend which, it will be suggested, may have contributed to a belief that the act of suicide could sometimes occur from necessity rather than free will. (The reader may wish to look again at that Paris ivory in Plate 10(a). Judas' hand is firmly on the rope, as if to make clear it was *he* who did it, in a deliberate move, perhaps, to staunch the belief that the act was predestined.) Our present concern is only to establish that the core of all traditions was that Judas committed suicide. It was one of the few facts about him on which medieval commentators were entirely certain. Together with his betrayal of Christ, and for some thinkers even in pride of place before it, suicide was *the* act that marked Judas out. It was 'the sin of Judas'.

Judas the Damned

The Devil's appearance on the Freiburg tympanum is a reminder that suicide was not the end of Judas' downfall. He was not only dead but damned, and with a finality shared with no other figure. There were two ways of 'damning' a person. One was to envisage him physically in Hell by means of a vision. Dante would do this to Judas in *Inferno* 34: 62, when he put Judas next to Caesar's betrayer, Brutus, in Hell's icy extremity. But the novelty there was Brutus, since Judas, for his part, had been in Hell almost from the beginning, and at its point of utmost torment. It would take us too long to rehearse all examples of this from the early Church onwards. The most vivid—which will have to stand for the rest in the present context—is in a Norman-French version of the Voyages of St Brendan, made in the early twelfth century. (St Brendan was the sixth-century Irish monk whose *Navigatio* became a well-known legend from the tenth century, and underwent additions and subtractions from time to time.) Brendan came to a fiery island which proved to be Hell, and in the Anglo-Norman version he saw details of the punishment of Judas. Judas suffers a different torture for each day of the week. On Monday he is

[28] Below, pp. 377–9.

spun on a wheel, on Tuesday impaled, on Wednesday roasted, on Thursday confined in an icy subterranean valley, on Friday flayed, and on Saturday forced to drink molten lead and copper. On Sunday—as befits a Hell appropriate to a well-disciplined twelfth-century Church—Judas is allowed to rest, so that he can start all over again the following week, refreshed. Taken singly, most elements in the list really happened to people in that epoch. Many more must have feared them. What the legend has done is gather all the worst fears of contemporary imagination and realize them in the fate of one cursed *persona*. The judgement on this text by Peter Dinzelbacher, an expert both on Judas legends and on medieval vision literature as a genre, is that 'the pains of Hell are seldom found described in such detail.'[29] Once again we are back with an extreme.

I said Judas' fortunes after *c.*1100 were moulded by three factors. His unique degree of damnation may nevertheless reflect a fourth, more enduring, feature of medieval society, namely its dependence on man-to-man loyalty. If a man who owed loyalty to another was allowed to betray him, society would collapse in anarchy. *The Song of Roland* enshrines this principle: Ganelon, who betrayed Roland to the Saracens, was sentenced to be torn apart by wild horses. In the literary history of Roland, there is no sign that anyone thought that punishment excessive: the tender bond of personal fidelity had to be defended by every sanction available. It has often been noticed by students of King Alfred, that in the prologue to his law, the king makes one stark exception to the principle that crimes can be paid for and money bought for down-payment: treason, against a lord. Treason deserves no mercy.[30] German heroic epic tells the same story, as for instance in *Heliand*, and in poetry influenced by it, including a German version of *The Song of Roland* itself, which now explicitly compares Ganelon to Judas.[31] Roland and his betrayal may even have contributed their mite of influence to Giotto's famous *Betrayal of Judas* in the Arena Chapel in Padua, where both Judas' act of betrayal, and its recompense in the hanged figure in Hell, occupy positions whose centrality in the scheme of frescoes strikes the eye but has not been entirely explained;[32] Roland—alias Orlando—having become the knightly hero *par excellence* in the romantic-literary culture of Giotto's and his patrons' youth.[33] In the next section I shall consider shifts in the historical

[29] Dinzelbacher, *Judastraditionen*, 57.

[30] Stubbs, ed., and H. W. C. Davis, rev., *Select Charters*, 9th edn (Oxford, 1957), 69–70. G. G. Coulton, *Medieval Panorama* (Cambridge, 1938), 54, wrongly attributes this provision to the example of Judas, who is not mentioned. The causation is the other way round.

[31] A. Büchner, *Judas Ischarioth in der deutschen Dichtung* (Freiburg im Breisgau, 1920), 7–11; cf. Baechtold-Stäubli, *Handwörterbuch*, vol. 4, 800; Dinzelbacher, *Judastraditionen*, 77.

[32] U. Schlegel, in J. H. Stubblebine, ed., *Giotto: The Arena Chapel Frescoes* (New York and London, 1969), 182–9.

[33] R. Davidsohn, *Geschichte von Florenz*, vol. 4, pt 1 (Berlin, 1922), 40–2.

memories of Judas in various periods, and one factor in these shifts may have been changes in precisely this, the status of personal loyalty as a political virtue. Attempts to 'understand' Judas—as in our own day, or in Origen's Alexandria—are easier when loyalty to an entity less personal than another man—a state, say, an Emperor, or an abstract idea—is sovereign. That may conceivably have been happening in some circles already in the late Middle Ages, when certain German plays—caught in the old dramatic dilemma of making a character *both* bad *and* credible—take an easy way out by humanizing Judas into an almost comic villain.[34] There is no sign of that in the crusading centuries, when Judas' damnation is utter and unrelieved.

The second way to damn someone was to associate him with curses. Some curses were for special occasions, others were pronounced every day, like swear words. Of the first kind, 'May you/he suffer the fate of Judas' was a common example, first known from tomb inscriptions in second-century Rome.[35] How the fate of Judas was envisaged was not normally spelt out. In so far as it was, its meaning appears to have been shared between eternal damnation and suicide, the two being seen not as opposites but as a natural pair and jointly forming a sanction against (in these cases) tomb-violators. The same kind of phrase can appear in medieval maledictions against, for instance, violators of a person's will, or a gift to a monastery.[36]

The damnation implied by this formula was also expressed in folklore. There is no need here to embark on a rehearsal of Judas legends, except to identify in them an unmistakably fatalistic motif, as if Judas was himself cursed from before his birth; a motif which sits uneasily, at best, beside serious Christian theology, but which gave the legends roots no less wide-reaching in popular memory.[37] As for folklore, the beliefs and customs of medieval folklore are by their nature hard to trace, and there are dangers in reading back from post-Renaissance evidence—which means the great majority of what evidence there is. Its quantity nevertheless leaves little doubt that where the Gospel was known, even in the Middle Ages, Judas gathered to himself the symbolized hate appropriate to a scapegoat. Christ's betrayer was the perfect candidate for the moral contempt which, when focused unanimously against an individual, gives a community the unity and moral self-confidence it commonly needs. Among folkloric customs probably medieval was the Judas hunt, a ritual in which a man, usually picked for his red hair (or provided with it) was chased by the crowd out of a district. In some places the 'Judas' was a puppet, and burned; in others, a cat or he-goat, thrown from a

[34] Büchner, *Judas Ischarioth*, 32–3.

[35] F. Cabrol and H. Leclercq, *Dictionnaire d'archéologie chrétienne*, vol. 8 (Paris, 1928), col. 272.

[36] Little, 'La morphologie des malédictions monastiques' (see n. 7), 58 and 59 n. 16.

[37] P. F. Baum, 'The medieval legend of Judas Iscariot', *Publications of the Modern Language Association of America*, 31 (1916), 480–632.

tower to its death. In some German and Slavonic milieux, the word 'Judas' was synonymous with 'demon'. This and other features of the ritual suggest it was a kind of exorcism.[38]

Customs like the Judas hunt were matched by a range of corresponding folkloric beliefs attaching a malediction to all things smacking of Judas. The species of tree on which Judas hanged himself was cursed. The species was identified by some as a willow (which bent down under Judas' weight), by others as an elder (whence its berries are bitter), by others as aspen (which has trembled, according to a tradition mainly Slavonic, since Judas hanged himself on it), by yet others as tamarisk, or wild carob. Late medieval pilgrims to the Holy Places were shown the actual tree on which Judas had hanged himself. Since this was a fig, fig-trees became thereby the favourite candidate for the Judas curse.[39] A similar variety of beliefs clung to certain days. The day of Judas' birth—30 April, 14 July, and 30 November, or the 7th of an unidentified month, according to region—was unlucky, as was the weekday—Wednesday (of Holy Week)—on which he had betrayed Christ.[40] Folklorists have gathered many instances, mostly but not all from post-Renaissance sources, to illustrate these beliefs. Their service to us now is to add still further emphasis to the isolated degree of Judas' damnation, a conclusion to be paired with that of the previous section.

The Crucifixion of Christ exalted, in an extreme degree, one kind of death, that of the patient, loyal martyr to love and duty. The suicide of Judas linked deliberate self-murder with the most cursed of traitors. The contrasted symmetry of the two deaths, as portrayed in one artistic tradition, put that contrast in relief. But we are entitled to put a question. How far was this contrast historical, on Judas' side? Did the historical Judas—granted there was one—really commit suicide? *Prima facie* it certainly *seems* he did. But if it could be shown he did not, then a question would arise how the belief that he did came about. Put another way: while to the naked eye it seems that Judas' historical suicide had put a special curse on that kind of death, the truth might have been the reverse: that the curse had pre-existed and remoulded history in its own image, *making* Judas die by suicide whether he really did or not. That is mere hypothesis. But it has enough promise to be worth a voyage in the historian's time machine, back to the New Testament.

[38] Baechtold-Stäubli, *Handwörterbuch*, vol. 4, cols 803–4; Dinzelbacher, *Judastraditionen*, 12–15, 41–5; though I cannot accept, with Dinzelbacher, that Gulielmus Durandus, *Rationale divinorum officiorum* [late 13th century], bk 6, ch. 71, *De quinta feria*, §§27–8 [edition of Antwerp, 1570, fol. 334^{v}] constitutes evidence for the Judas hunt; and it is Dinzelbacher's only chronologically medieval example.

[39] A. Taylor, 'The Gallows of Judas Iscariot,' *Washington University Studies*, Humanistic series, 9, no. 2 (1922), 135–6.

[40] Baechtold-Stäubli, *Handwörterbuch*, vol. 4, col. 802.

The Historical Judas

The New Testament records the death of Judas twice. St Matthew's Gospel says that when Judas saw Jesus condemned he:

> repented and brought back the thirty pieces of silver to the chief priests and the elders, saying, 'I have sinned in betraying innocent blood.' They said, 'What is that to us? See to it yourself.' And throwing down the pieces of silver in the temple, he departed, and went and hanged himself. (Matthew 27: 3–5)

The chief priests thought it improper to put the money in the treasury because it was 'blood money'. So after discussion they used it to buy a field called the potter's field, which Matthew says is consequently called the Field of Blood 'to this day'.

The account in the Acts of the Apostles, on the other hand, starts with the field and says Judas 'bought a field with the reward of his iniquity'; and then goes on with Judas' death:

> falling headlong, he burst open in the middle and all his bowels gushed out. (Acts 1: 18)

Acts does not, then, say Judas committed suicide. Nor is it a question of translation, for the Greek original reads as follows:

prēnēs genomenos: 'falling head first' [πρηνὴς γενόμενος] *elakēsen mesos*: 'he burst open in the middle' [ἐλάκησεν μέσος], *kai exechuthē panta ta splangchna autou:* 'and all his innards came out' [καὶ ἐξεχύθη πάάντα τὰ σπλχγ'να αὖτοῦ].

The clash between the two accounts exercised commentators in the early Church. Some of them chose a philological approach by trying to make Matthew's verb *apangchesthai* [ἀπάγχεσθαι] mean 'to kill onself by any method' rather than merely 'to strangle oneself', with the desired result that 'falling head first' could be the same thing as *apangchesthai*. Conversely the terminology of Acts could be interpreted in a more suicidal fashion by the reading of *genomenos* [γενόμενος] as 'swelling up', which, done head first, might conceivably be consistent with self-hanging. Modern philology has been uniformly unimpressed by these suggestions, since they find no support elsewhere in Greek vocabulary.[41] Another ancient solution was to suggest the branch broke while Judas was hanging himself, so that he hanged himself and *subsequently* fell headlong and burst open. The ingenuity of that solution, while it influenced legend, has failed to recommend it to scholarship though it was revived, with due use of medical terminology, by medical historians at the

[41] P. Benoit, 'La mort de Judas', *Synoptische Studien. Alfred Wikenhauser zum 70ten Geburtstag* (Munich, 1953), 1–19, esp. 4–5.

turn of the present century. (The lead article on the subject, in the *Bulletin de la Société d'Anthropologie de Lyon* of 1905, was subtitled 'Étude critique d'exegèse et de médecine légale sur un cas de pendaison célèbre'. The discussion, about what sort of self-hanging could lead to a person's bursting in the middle and his insides falling out, occupied a substantial fraction of that issue.[42])

Critics tend now to brush these solutions aside and take the difference of the texts at face value, accepting there were two different traditions. Readers of *The Violent against Themselves* cannot be surprised. This is the 'split tradition', in which one current of collective memory reports a death as suicide, another represents it as natural or as the result of others' violence. Several medieval examples were considered in the previous volume, where we took note also of an assurance from Greek and Roman historians that split traditions on suicide often grew up there too.[43] When a tradition is split in this way it is occasionally possible to divine which half of the tradition has the better authority, the fortunes of each half of the tradition partly depending, at the time of its origin and later, on the moral microclimates through which it passed, a knowledge of which can help in the assessing of each story. (An example was the death of Prince Henry of Hohenstaufen, son of Frederick II, in 1235. The suicidal version, present but elusive at the time, came to the fore about a century after the event as the Renaissance approached, with its neoclassical tolerance of suicide and taste for a strong story.[44])

Our medieval experience of split traditions may help us interpret the accounts of Judas' death in Matthew and Acts. A look at their origins will help us to form an opinion on their claims to authenticity, in an area of notorious difficulty. Let us opt for the moment for a traditional view that Matthew took much of his Gospel from a lost shorter Gospel ('Q'), shared with Mark. Since the passage on Judas' death is not in Mark, it was more probably than not set down by Matthew straight from an oral tradition, that is, between ad *c.*65 and ad *c.*100, when Matthew wrote. The writing of Acts, normally ascribed to the evangelist Luke, is commonly dated between ad *c.*70 and ad 95. As a first conclusion, therefore, we can say there is little to choose between the two accounts purely on grounds of date.

What of other marks of authenticity? Modern criticism of the two versions, has considered, besides their date, their literary characteristics. Both versions, in Matthew and in Acts, clearly aim to show the traitor has to come to a bad end. They do so with more or less open allusion to the anti-traitor Psalms (especially 108: 'let him be condemned: and let his prayer be turned

[42] Vol. 24 of the *Bulletin*, pp. 104–30; with commentaries on pp. 139–55 and 135–9; quoted by H. Leclercq in Cabrol and Leclercq, *Dictionnaire d'archéologie chrétienne*, 8, 263 n. 1.

[43] *The Violent against Themselves*, 47–8. [44] Ibid., 50–3.

into sin'), while in Matthew the traitor's self-hanging replicates that of the Old Testament traitor Achitophel—who betrayed King David. These Old Testament echoes have led as far as the suggestion that both accounts of Judas' death may have been literary inventions, with the possibility that the same might even be true of Judas' very existence. Most New Testament scholars now agree, apparently, that this goes too far. The European medievalist's rule for interpreting narrative evidence comes in useful here: 'bad story: good history'. For both Matthew and Acts link Judas' death with the buying of a certain field but they do so inconsistently with each other, making it in that degree a 'bad story'. So their accounts all the more probably betray an actual tradition.[45]

The tradition had been remembered for a period of some thirty or forty years, unwritten, and during that time had become split. To appeal to modern criticism again, there is apparently much in Matthew's account, and in his Gospel, to link him with Jerusalem; that is, to suggest the tradition he recorded was that of Christians in Jerusalem. This fact lends authority to his version of any events that had happened in that city.[46] It also means he probably wrote for Christian converts from Judaism, who needed special reinforcement if they were not to slide back into old Judaic beliefs. In the Judas episode, for instance, Matthew places Judas' barren remorse straight after Peter's efficiacious repentance (Matthew 26: 75), thereby implicitly contrasting Judas—a Judaean and therefore already a Jew *par excellence*—who mistakenly put his trust in an *act* to win restoration to grace, with the Galilean (and hence super-eminently Christian) Peter, who recognized his fault, wept for it, and was forgiven.[47] The distinction was also one of language. The bearers of the Jerusalem tradition would have spoken Aramaic among themselves, helping to highlight that in Acts, Luke wrote in Greek for Greek speakers (cf. Luke 1: 19). In this, as in other ways, Luke betrays an affinity to the traditions specifically of Hellenistic Christians, perhaps in Antioch.[48]

The above summarizes the hypotheses of two recent biblical scholars, hypotheses whose mutual harmony adds to the effect of the internal coherence of each. What survives is the question whether Judas' suicide was added to, or taken away from, the tradition: whether, that is to say, Judas died naturally, and it was Matthew's tradition which made the alteration by reporting his death as suicide; or whether, by contrast, it was Luke's tradition which made the innovation, covering up a suicide in an allegedly natural death. A

[45] W. Vogler, *Judas Iskarioth. Untersuchungen zu Tradition und Redaktion von Textens des Neuen Testaments und ausserkanonischen Schriften*. Evangelische Verlagsanstalt. Theologische Arbeiten, vol. 42 (Berlin, 1983), esp. 66–7, 85–6.

[46] Benoit, 'La mort de Judas', 18–19; cf. Vogler, *Judas*, 65.

[47] Ibid., 73–4. [48] Ibid., 87–8.

firm answer is not to be expected, given the subtleties of first-century scholarship—the relation between Gospels and hard history being, after all, the most debated of all learned questions. Our own task demands no more than that we know there *is* a question, and that we identify the two subsidiary questions which must bear on our approach to it.

One of the subsidiary questions is, which oral tradition, that recorded by Matthew or that recorded by Luke, would be likely to have felt the stronger anti-Judas animus, of a kind which could persuade the tradition to make Judas' death more disgraceful? The other is, which death *was* more disgraceful? The answers are not foregone. For instance, the late David Daube argued that, in that period and place, suicide was *less* disgraceful than falling head first and bursting open in the middle. On this assumption Matthew was doing Judas' memory a good turn, by saying he had 'done the decent thing' by hanging himself when he realized his fault.[49] Evidence on first-century Jewish views of suicide may be thought too ambivalent to support this reading. It would in any case have more force if it had been the Hellenistic Luke (Hellenists having plenty of honourable suicides in their tradition), not Matthew of Jerusalem, who had made Judas 'do the decent thing' in this way.[50]

I shall not try to pursue the truth behind Judas' split tradition any further, but, in leaving it, explain why merely to have raised the question serves our present medieval purpose. Among scholars who have debated the traditions of Judas' death it may have been noticed that none *was* medieval, and for a simple reason, namely that medieval European scholars were unaware there was anything to debate about. They were indebted for this comfortable serenity, as for much else, to St Jerome. In turning the Hebrew and Greek Bible into the Vulgate in the late fourth century, Jerome had resolved the clash between Judas' two deaths by making *both* of them read as a hanging. Jerome deftly chose one Latin word, *suspensus*, to replace the two problematic Greek ones in Acts, *prēnēs genomenos* (*πρηνὴς γενόμενος*). What medieval scholars therefore read in Acts 1: 18 was:

et suspensus crepuit medius et diffusa sunt omnia viscera eius ['And *suspensus*, he burst in the middle and all his innards were scattered'].[51]

Suspensus literally means 'hanged', not always and necessarily, to judge from other contexts, 'self-hanged'; but usually, and it is close enough to the word *suspendiosus*, which definitely did mean 'self-hanged',[52] to make Jerome's word at the very least ambiguous and in effect, in its cultural context, indistinguishable from the meaning of Matthew's *apangchesthai* (*ἀπάγχεσθαι*).

[49] D. Daube, 'Judas', *Rechtshistorisches Journal*, 13 (1994), 307–30. The article is based on notes for a Gifford Lecture delivered in the University of Edinburgh.

[50] Jewish views: pp. 513–23 below. Hellenistic: pp. 127–39 above and 523–30 below.

[51] *Biblia Vulgata*, ed. R. Weber. 3rd edn (Stuttgart, 1983), 1699.

[52] See below pp. 495–504.

Since the original Greek text of the Acts was not available to medieval commentators until at earliest the late thirteenth century, they were saved from the puzzle that plagued earlier and later scholars, and were saved without realizing what danger they had escaped. Jerome had done them a favour, in this sense deliberate, that Jerome thought suicide extremely wicked, hence a fitting end for Judas, and 'interpreted' his Greek texts accordingly. Such 'harmonization' of sacred texts, even in the absence of translation out of Greek, was in fact not at all uncommon in these early Christian centuries (to the bafflement of textual scholars)[53] and that bit of pious sleight of hand, if there can be such a thing, was far from untypical of the Jeromean *chef d'oeuvre*. The art of translating with no interpretation at all has never reached perfection, and that great prophet linguist of the post-Constantinian Church had bigger tasks on hand than to attempt it.

To know that medieval scholars were excused from questioning Judas' suicide by a felicitous mistranslation is not to say they would have questioned it otherwise. Jerome himself, with the Greek at his disposal, did not question it. The idea of doing so would probably not have occurred to him. So why should his medieval successors think otherwise? Later Greek tradition may be a guide here. To late antique and medieval Greek Christians, Jerome's Vulgate could make no difference, since they had no need for it, enjoying direct access to the original Greek New Testament. Acts or no Acts, popular Greek tradition made Judas commit suicide, unambiguously. Indeed, it did so with such force that some medieval Greek legends, in that watery Aegean world, made Judas die by *drowning* himself,[54] such was the power, with or without texts, of this particular pressure. It was *so* important, for the curse on self-murder, that Judas should have died this way, since it gave the curse scriptural justification.

I have suggested that it just might, just conceivably, have been the curse that came first, and altered tradition to suit it: that is, that Acts may have told Judas' death correctly and Matthew may have added the suicide. Prudence may recoil from asserting that about Judas. But there were split traditions about two other Gospel villains. In their cases that inhibition can be thrown to the winds, since the order of development is beyond doubt. I begin with Pontius Pilate.

The Suicide of Pilate

Testimony to the career of Pontius Pilate survives from, as well as the New Testament, the first-century authors Philo, Josephus, and Tacitus.[55] None of

[53] D. C. Parker, *The Living Text of the Gospels* (Cambridge, 1997), 7.

[54] Dinzelbacher, *Judastraditionen*, 56–7.

[55] Philo Judaeus, *Legation to Gaius*, §§299–305; Josephus, *Jewish Antiquities*, bk 18, §§35–89 and *Jewish War*, bk 2, §§169–77; Tacitus, *Annales*, bk 15, §44.

these says how or when he died. All they let us know for sure is that Pilate was summoned to Rome by the Emperor Tiberius in ad 36, to answer charges of mistreating Samaritans as prefect of Judaea, and that he arrived in Rome just before Tiberius died.[56] Prefects in that unfortunate situation were sometimes beheaded. But no contemporary of the events says that beheading, or anything else, happened to Pilate, and in the second and third centuries Christian writers still mention Pilate without adding anything on his death. It was only in the very early years of the fourth century that this last lacuna was filled, by Eusebius of Caesarea. In the *Ecclesiastical History* Eusebius says Pilate's last days were so 'calamitous that he was forced to be his own slayer and punish himself with his own hand'.[57]

Eusebius was here self-consciously describing a 'bad end'. His story may have drawn on an old account in Josephus' *Jewish Antiquities*, of a first-century governor of Syria who was ordered by an Emperor to kill himself.[58] It is true that Eusebius can on occasion treat suicide as heroic, as he does when it is a question of Christian virgins, seeking to avoid rape. But that clearly does not apply here. Jerome, too, treated suicide by such virgins as heroic but other kinds of suicide as very 'bad ends', as we have just seen in respect of the wicked Judas. Suicidal virgins would remain a special problem, even for the anti-suicidal Augustine. So it is unlikely that Eusebius was trying to make Pilate seem a *better* man for having killed himself.

A further objection to this reading may be made. Some Christian traditions—voiced in Latin by Tertullian, *c.*200—*were* sympathetic to Pilate and said he had a bad conscience for having crucified Christ.[59] Might Eusebius not have been in this tradition? Again the answer must be no, if we consider the political milieu in which he wrote, *c.*300. The pagan Empire, in its last throes, was in Eusebius' time telling its prefects to put recalcitrant Christians to death, like so many latter-day Pontius Pilates. Allies of the pagan Empire were bound to defend the memory of the first prefect to have done so and it is likely that some pro-Pilate legends may stem from this time, since they would certainly have boosted the pagan imperial cause.[60] For exactly the same reasons,

[56] Josephus, *Jewish Antiquities*, bk 18, §89.

[57] Eusebius, *Ecclesiastical History*, bk 2, ch. 7.

[58] Josephus, *Jewish Antiquities*, bk 18, §§307–9: the Emperor is Gaius, the governor Petronius. Cf. E. von Dobschütz, *Christusbilder* (Leipzig, 1899), esp. ch. 6 ('Die Veronika-Legende'), 197–262, on p. 205.

[59] Tertullian, *Apologeticum*, ch. 21, §24: 'Pilatus, et ipse iam pro sua conscientia Christianus' [ed. H. Hoppe, *Corp. Script. Eccles. Lat.*, vol. 69 (Vienna, 1939), pp. 58, 124]. Cf. M. R. James, rev. J. L. Elliott, *The Apocryphal New Testament* (Oxford, 1993), 206–11.

[60] W. H. C. Frend, *The Early Church* (London, 1965), 133. The dating and identity of the *Acta* or *Gesta Pilati* are explored, with radical criticism of any dating before 555, by G. C. O'Ceallaigh, 'Dating the Commentaries of Nicodemus', *Harvard Theological Review*, 56 (1963), 21–58. Translation with further literature in James and Elliott, *Apocryphal New Testament*, 169–204.

the Christian Eusebius could not have sympathized with these legends. He was champion of a persecuted Church and could not afford to bend things in Pilate's favour. Pilate *had* to die a 'bad death', the worst possible. Hence the suicide.

Eusebius' *Ecclesiastical History* was translated into Latin and became well-known to Latin historians from the later fourth century onwards. It was also read by Greek historians, destined in their turn to be translated into Latin. Medieval scholars who quarried it were mostly content to add Pilate's suicide to the considerable repertoire of suicides committed by Roman noblemen, so that the suicidal Pilate simply took up residence in the main tradition of Roman history. He belonged to the written inheritance of most scholars who cared to pronounce on the subject. He is there as a matter of course, for instance, in Haimo of Auxerre's *Historiae sacrae epitome* in the Carolingian renaissance.[61] In that of the twelfth century, we duly find Pilate's suicide quoted via Orosius, complete with a 'they say', in Otto of Freising's *Chronica*,[62] and in the early thirteenth it would still be there, in much the same terms, in the *Speculum morale*.[63] None of these works is a freak in this respect.

The early history of Pilate's alleged suicide offers a tempting parallel to that of the split tradition of Judas. Pilate's suicide nevertheless has its own medieval postscript, a postscript in some respects continuous, in other ways discontinuous, with the early history just described. It is continuous in that, in narrative with a medieval origin, the character of Pilate's suicide as a 'bad end' is increasingly emphasized, in a way exactly opposite to that in the case of a saint and his 'good end'. There, a legend often contains elaborations of martyrdom accounts first soberly recorded by Eusebius, making the martyrs' good ends get even better.[64] The opposite applies to Pilate. Legends about Pilate had begun to appear in the west from perhaps as early as the fifth century. The earliest ignored the suicide, even though it could be read in Eusebius. One legend, for example, makes Pilate die naturally in exile, while another has him beheaded. But at a date probably within fifty years of the millennium (that is, *c.*950–1000), a new legend was born in which Eusebius' suicide story, whose presence in a Carolingian collection we have already noticed, fused with other legendary material to make the suicidal Pilate a commonplace. The place and personal names in the other legendary material suggest origins

[61] Bk 2, ch. 14; *Pat. lat.*, 118.827AB.

[62] Bk 3, ch. 12; ed. A. Hofmeister, *Mon. Germ. Hist.* [8°] (Hannover and Leipzig, 1912), 148.25–6.

[63] Bk 3, pt 6, dist. 16; printed in Vincentius Belvacensis, *Speculum maius*, 4 vols. (Venice, 1591), vol. 3, on fo. 224vb. Although long attributed to Vincent of Beauvais, O.P. (+1264), this work was probably written shortly after his death.

[64] The theme of H. Delehaye, *Les légendes hagiographiques* (Brussels, 1905); the fourth edition translated as *The Legends of the Saints*, by D. Attwater (London, 1962).

in Italy and southern Germany, but it soon spread. At least forty-five Latin versions have been counted.[65] Of these a single, long version, known by its specialist students as the 'Long Legend of Pilate', came to the fore in the twelfth century, and in the 1260s would be the natural choice for inclusion in James of Varazze's *The Golden Legend*; which had the further result, among others, of securing it translation into several vernaculars.

Pilate's Long Legend is an example of one subspecies of what I have called 'occasional theology', and is worth pausing on for that reason. Like *The Legend of Judas*, it is concerned largely with its subject's birth and early life, themes it presents in motifs derived from stories about Charlemagne, eastern fable, and elsewhere. The Legend then reworks the biblical episodes about Pilate and adds a coda. It is this last, the coda, that engendered what I called Eusebius' medieval postscript, and involved the suicide. In medieval chronicles generally, we know from elsewhere, writers otherwise reticent on suicide sometimes reported it in the context of a particular kind of episode, that of the 'fallen official', the public servant who has fallen into disgrace.[66] Perfectly reliable historical accounts show that Pilate was the perfect example of this type, and the Long Legend duly picked on this aspect. It tells how a Roman Emperor—Tiberius in some versions, Titus (died ad 81) in others—is sick, and sends for the famous thaumaturge, Jesus of Nazareth. On hearing that Pilate has had Jesus put to death, the imperial patient falls into a rage, summons the culprit, and imprisons him. In prison, learning the Emperor has sentenced him to a cruel death, Pilate stabs himself with his own knife. He can be seen doing so in the top left quarter of the illumination in Plate 12(a).[67]

As usual, what people think of a manner of death is often expressed by their treatment of the corpse, and the Long Legend develops this element appropriately. Pilate's corpse is thrown into the Tiber. There it causes thunderstorms.

> On which account, the Romans took counsel, and the corpse was taken out of the river again. More or less out of mockery it was then thrown into the river Rhône, at Vienne. For the name of Vienne [*Vigenna*] derives from 'the road to Hell' [*via Gehennae*], and it is said to be a cursed place. The men of that city were none the less unable

[65] A. E. Schönbach, review of C. de Tischendorf, *Evangelia apocrypha*, 2nd edn (Leipzig, 1876), in *Anzeiger für deutsches Altertum und deutsche Literatur*; bound with *Zeitschrift für deutsches Altertum*, 2 (1876), 149–212, on pp. 167–70. The literature and versions are reviewed by H. Martin, 'The legend of Pontius Pilate', *Amsterdamer Beiträge zur älteren Germanistik*, 5 (1973), 95–118. On the similarity in character and history between the Pilate and Judas legends see Lehmann, 'Judas Ischariothes in der latinischen Überlieferung' (see n. 24), 312. Two miniatures from an illustrated MS of the Pilate legend, Milan, Bibl. Ambrosiana, MS Lat. 58 Sup., are shown in Plate 12. Cf. also Schmitt, 'Le suicide', 13 with discussion.

[66] *The Violent against Themselves*, 74–84.

[67] Ed. F. J. Mone, in *Anzeiger für Kunde der deutschen Vorzeit*, 7 (Karlsruhe, 1838), cols 526–9; the suicide and burial, cols 528–9.

to bear the bad weather and the attacks of evil spirits. So the citizens of Vienne, in their turn, got rid of the vessel of malediction [= Pilate's corpse] and committed it for burial to a certain city called Lausanne. It was now the citizens of Lausanne who were afflicted with the ragings of demons. So they took the corpse to the Alps, and put it in an empty well surrounded by mountains, which place, according to some, will suffer until the end of time with all manner of revolting and ingenious devilries. The well is near the mountain called Septimer.[68]

The essentials of all this are shown in Plate 12(b).

Pilate's Long Legend, with its specification of three cities of which one is 'cursed', suggests an ephemeral *campanilismo*, a configuration of local loyalties that came and went, perhaps in a decade or two. No one has yet been able to demonstrate what configuration that might have been—perhaps it was that of the mid-tenth-century power struggle when Hugh of Arles, an ambitious count of Vienne, was aspiring to Charlemagne's imperial crown.[69] A conclusive argument on the subject would date the story. Fortunately the question scarcely affects the legend's value for an understanding of its milieu. From the twelfth century this Long Legend, with its emphasis on suicide and the attached curse, drew ahead of its rivals in Pilate's murky popular historiography. Serious churchmen did not believe it, though they might repeat it, with minor additions or subtractions, as a belief that *some* people espoused.[70] But all that shows is that some people *did* espouse it. Their theology was very much of the occasional kind, a kind for which the tradition on Pilate's death was no longer split. He had become definitely a suicide.

In trying to interpret the early split tradition on Judas' suicide I said there were two other New Testament villains subject to a similar split tradition. Pilate was one. The other was Herod.

The Suicide of Herod

The tradition of Herod's suicide is weaker than that of Pilate's, but equally instructive in a different way. It reveals some of the stages by which, as the tradition of a Gospel villain was passed down the generations, his suicide could be invented almost *ex nihilo*. We have seen many split traditions; here we watch one *being* split.

Historical accuracy on the Gospel 'King Herod' is hindered by there having been two 'King Herods'. Matthew tells how 'King Herod' massacred the

[68] Ed. Mone, 529.

[69] A struggle whose impact on historiography is identified by P. J. Geary, *Phantoms of Remembrance* (Princeton, NJ, 1994), 135–46.

[70] e.g. Otto of Freising, as in n. 62.

innocents soon after Christ was born (Matthew. 2: 12–16), while Mark has 'King Herod' behead John the Baptist not long before Christ's own death (Mark 6: 14). Careful readers will notice, however, that Luke, departing in this particular from Mark, calls the second Herod not 'king' but 'tetrarch'; and Luke has the support of all other sources. The first Herod really was a king, namely King Herod the Great, who died in ad 4. Among Herod the Great's excesses were some concerning wives, of whom he had ten, mostly concurrently, and numerous progeny, of whom eight took his own name. One consequence was that there were eventually nine Herods altogether, an ample pool to provide one more for the Gospel, so confusion was easy. The Baptist's executioner was one of those eight sons of Herod the Great. He is properly known as Herod Antipas, sometime Tetrarch of Galilee. Herod Antipas vanished from history in ad 39 into exile, no one knows where, together with his notorious wife Herodias (mother of the Salome who demanded John the Baptist's head).

Paides angchorai biou: children are life-anchors. Sophocles' maxim does not appear to have applied to Herod the Great, at least not in his afterlife. *His* death was the one that became the suicide, and was destined, according to one medieval tradition, to serve for his son Antipas as well. In the case of this compound double-Herod we have the rare opportunity of witnessing how a suicide was invented. The process is one special instance of the creation of legend out of solid history, a process which bears on much of the evidence used in the discovery of historical sucides, including—with due precautions—that of Judas. With the exception of some non-essential particulars the stages of the process can be traced and will, I hope, be instructive.

The tale is one of a text. It begins with Flavius Josephus, author of two long works on the history of the Jews, written at the end of the first century. Josephus records how Herod the Great lived to a great age (over 70), how he rendered himself increasingly hateful to the Jews by tyranny, and eventually got his deserts by dying of foul diseases. The onset of disease did not stop Herod's tyrannies. The king had already put to death two of his own sons, and on his deathbed put to death a third. Josephus describes all this at length in *Jewish Antiquities*:

> Herod's illness became increasingly acute, for God was visiting him with just punishment for his lawlessness. . . . There was also an ulceration of the bowels and intestinal pains . . . and his feet overflowed with liquid pus. He also had pains in the lower part of his body and worm-infested gangrene in his privy parts.

The withering account goes on for some twenty chapters, alternately describing further atrocities and the tyrant's ever-multiplying diseases. Several pages before the end Josephus relates the following episode:

[Herod] asked for an apple and a knife—for it was his custom to peel the fruit himself and cut it into small pieces for eating—and when he had been given the knife he looked around with the intention of stabbing himself, and would have done so if his cousin Achiab had not seized his right hand before he could do so.[71]

One surviving son misunderstood Herod's episode with the fruit-knife and spread premature news of the king's death. It was for this reason that the king had him killed, adding to the score of murdered sons. But eventually the parricide had to succumb. In saying how he did so, Josephus the historian wrestles with Josephus the moralist. He concedes that Herod had enjoyed a certain good fortune, by living so long and attaining such power. But he insists at the same time that he was cruel, and his diseases due recompense. The diseases got progressively worse until Herod died of them. 'Such,' concludes Josephus, fifteen chapters after the last quotation, 'was the end of Herod.'[72]

'Such was the end of Herod.' Let us remember that phrase as we pursue its history. Josephus wrote before ad 100. Between then and *c.*ad 300 some people had begun to think Herod's recompense was not severe enough. It is not known for sure who they were, but the first recorded step in this direction came, once more, in Eusebius' *Ecclesiastical History*, written *c.*300. When dealing with Jewish matters it was not Eusebius' custom simply to copy out Josephus word for word, if only because that would have made his *Ecclesiastical History* an unmanageably long book. Eusebius was summarizing, so he had to abbreviate and paraphrase what lay in front of him, only quoting directly a few select passages—a perfectly legitimate historical method. From a critical point of view, however, this was smugglers' territory, territory in which (as with translation *à la* Jerome) material could easily be slipped in and out without anyone's noticing, perhaps without even the perpetrator's noticing his own sleight of hand. This is what happened with Herod's death. When Eusebius comes to it he alternately quotes and paraphrases Josephus as usual, switching unannounced between the master's two big histories, *Jewish Antiquities* and *The Jewish War*. From the first of these, Eusebius gives us the account of one of Herod the Great's wicked plots: knowing his death would not be mourned, Eusebius says (drawing on *The Jewish War*), King Herod ordered that soldiers should, at the moment his death was announced, massacre a huge number of men, whose widows would thus ensure a universal day of mourning. The summarizer goes on:

After a little, Josephus says [Eusebius is here silently switching to the *Antiquities*]: 'Later on, racked by hunger and a convulsive cough, the pains he felt urged him to anticipate fate. He asked for an apple and a knife . . .'[73]

[71] *Jewish Antiquities*, bk 17, ch. 184. [72] Ibid., bk 17, ch. 199.

[73] *Ecclesiastical History*, bk 1, ch. 8, §14. I have slightly altered the translation by K. Lake for the Loeb edition (1926), vol. 1, p. 71, to emphasize features relevant here.

There follows the passage I have quoted from the *Antiquities* on p. 345. But now it only goes as far as the critical words 'with the intention of stabbing himself'. The reader may be eager to know what happened next. But Eusebius brings the quotation to an abrupt end, saying nothing of how the king's cousin Achiab held Herod's hand and prevented the suicide. All Eusebius does is to add these words of his own:

> Moreover, the same historian [Josephus] relates that Herod ordered the murder of another legitimate son before the end of his life, making the third in addition to the two others already put to death, and immediately gave up his life, torn by great agony. Such was the end of Herod: he paid a just penalty for the children that he murdered at Bethlehem.[74]

The phrase 'Such was the end of Herod' is, in fact, an unmarked quotation from later in the *Antiquities*: no less than *fifteen chapters* later. Eusebius is not actually misquoting. But he has transplanted 'Such was the end of Herod' strategically nearer to the attempted suicide, removing much chronological encumbrance in between. As if this were not enough, he has added other anomalies. Why, for instance, in the passage just quoted, does he blur the chronology of Herod's third murder of a son with a 'before the end of his life'? And why, for that matter, does he say Herod died 'immediately [*parachrema*]'? Why, in a word, has Eusebius made any of these editorial changes if his intention was not to leave on the reader an impression that the fruit-knife had something to do with Herod's death? Eusebius does not actually *say* Herod killed himself. Bishops do not tell lies. But tendentious editing can go a long way in that direction.

What Eusebius had only hinted at was taken up by a third historian, this time anonymous, working between the fourth and the ninth centuries. Like Eusebius, this anonymous compiler made his history by the judicious quotation and editing of earlier sources. Again he selected. Only minimal changes were needed to Eusebius' version. One was to alter the order of the elements. The order 'fruit-knife—sons—tyrant's death' became 'sons—fruit-knife—tyrant's death'. That is to say, the last chronological encumbrance was removed between the fruit-knife and the death. Equally important, this last excision had the effect of bringing the phrase, 'Such was the end of Herod' into immediate contact with the fruit-knife. The kindly cousin Achiab (who had prevented Herod's suicide in Josephus) had already been eliminated, by Eusebius. In the dark-age version, Herod therefore only raised the knife to stab himself . . . and then died. What editor could have resisted the temptation? He

[74] *Ecclesiastical History*, bk 1, ch. 8, §§15–16 [p. 73]. N. Wiberal, in H. Litschel, ed., *900 Jahre Klosterkirche Lambach. Oberösterreichische Landesaustellung 1989. Historischer Teil* (Linz, 1989), p. 177 refers to this passage in Eusebius as an 'unklare Stelle'. My submission is that it was still clear enough but lent itself to the growing tendentiousness of later compilers.

must have thought the text surely *meant* Herod had killed himself. Only the faintest *legerdemain* was needed to harmonize it with an obviously suitable rendering. Here is the result, as given in a ninth-century compendium:

> Shortly before he died, having killed two of his sons, Herod ordered that a third be strangled. As the impious parricide felt his own death draw near he took an apple and asked for a knife (for it was his custom to eat an apple cleaned and cut by himself). Then, looking around to see that no one was there to obstruct him he raised his right arm and plunged the blade into himself. Such was the death of Herod.[75]

That quotation is from the *Epitome of Sacred History* attributed to Haimo of Auxerre, who was active in the 840s and 850s. The *Epitome* makes the suicide king simply 'King Herod' as if the two Gospel tyrants were the same.

The compiler of the ninth-century *Epitome*, whether or not the attribution to Haimo is correct, was not the same as the editor who had added the *coup de grâce* to Herod's suicide, since the *Epitome* is already quoting another source. J. A. Fabricius, in 1734–6 (in *Bibliotheca mediae et infimae latinitatis*, which contains the *Epitome* text reprinted in 1852 by Migne)[76] identified the compiler's source as Macrobius' *Saturnalia*, the imaginary symposium between classical Roman luminaries that Macrobius wrote in the 420s.[77] But no authentic text of the *Saturnalia* contains that episode, only an irrelevant anecdote about Herod the Great which, it appears, some dark-age copyist-cum-compiler may have used as a hook to hang the suicide story on. If Fabricius had such a dark-age text in front of him, the manuscript is now untraceable, but a suspicion that the deed was done in the Auxerre scriptorium itself is not far-fetched, and might prove a fruitful puzzle for experts working on the mysterious history of that school,[78] where Macrobius' works were certainly well known.[79]

[75] Haimo of Auxerre, *Historiae sacrae epitome*, bk 1, ch. 8; *Pat. lat.*, 118, 821C. The attribution of Haimo's works to his namesake of Halberstadt was the fruit of the immoderate patriotism of Johannes Trithemius (see his *Opera historica*, ed. M. Freher (Frankfurt am Main, 1601), 124), and has been discredited since 1962, as explained by H. Barré, 'Les commentaires carolingiens de l'école d'Auxerre', *Studi e Testi*, 225 (Vatican, 1962).

[76] I am assuming it was J. A. Fabricius who first identified the source. The edition of the *Epitome* published by Johannes Prahel in Cologne in 1531 (under the title *De christianarum rerum memoria libri decem* and attributed to Haymo of Halberstadt) quotes the story with no source at all.

[77] *Pat. lat.*, 118, 821C, note. The *Patrologia* version of the *Epitome* reprints an edition made in Cologne in 1600 which I have not seen. For the *Saturnalia*, see above, p. 145. The reference here is to *Saturnalia*, bk 2, ch. 4, but that only has an anecdote about Herod the Great, irrelevant to the present episode; cf. the edition by J. Willis (Leipzig, 1920), p. 144. 24–7.

[78] On whose *état de question* see *L'École carolingienne d'Auxerre, de Muretach à Remi, 830–908. Entretiens d'Auxerre, 1989*, ed. D. Iogna-Prat, C. Jeudy, G. Lobrichon; preface by G. Duby (Paris, 1991); and more generally, F. Brunhölzl, *Geschichte der lateinischen Literatur des Mittelalters*, vol. 1 (Munich, 1975), 480–1.

[79] A. Hüttig, *Macrobius im Mittelalter* (Frankfurt am Main, 1990), 46, on Remigius of Auxerre's knowledge of both major works of Macrobius.

The hypothesis that the story of Herod's suicide reached its finished form in Auxerre draws encouragement from a further circumstance: the story's presence in two Matthew commentaries probably themselves of Auxerre origin. One is a set of supposed *Homilies* attributed to Remigius (or Remi) of Auxerre (*c.*841—*c.*908), now thought to be not strictly homilies at all but rather sections of a commentary on St Matthew's Gospel, itself possibly by Haimo. The sixth *Homily* glosses Matthew 2: 19 ('when Herod was dead') by quoting the apple story and giving it this conclusion:

[Herod] looked this way and that to see if there was anyone who might stop him, and when he saw no one, brandished the knife, struck it into his chest and fell dead.[80]

The mystery deepens when we discover that a second Matthew commentary from the same school, and apparently from the same period, confidently gives the *non*-suicidal version of the story from Josephus, but in a form so close to its suicidal metamorphosis that this commentary too may merit a place in the chain of transformation. Because the attribution is doubtful, I shall call this second commentary 'X'. Perhaps X was written before the corrupted version of Macrobius, since it moves Herod's final atrocities (the murder of his third son) *before* the apple episode, which brings the 'Thus Herod died' conclusion to a place straight after the thwarted attempt:

As [Herod] lay on his left side he wielded a blow of the knife at himself, striking himself with his own hand, so that he would at once have died unless one of his friends, standing near, called Achiab, had not drawn back his hand with his sword. Thus Herod died, who through hatred of the Saviour had spilt the blood of many innocent people.[81]

That the author of X had direct access to Josephus' account, rather than taking it from Eusebius, is shown by his naming of Achiab (compare the quotations on pp. 345 and 346 above). But he has abbreviated more drastically than Eusebius, and brought the story only a hair's breadth away from the suicidal

[80] Remigius Antissiodorensis, *Homiliae*, no. 6; *Pat. lat.*, 131, 865–932, at 898B: 'Habebat is praeterea consuetudinem ut post omnem cibum purgaret ipse malum et comederet; quod cum fecisset quadam die aspexit huc et illuc ut videret si esset aliquis qui eum prohiberet, cumque neminem vidisset, vibrato cultello percussit pectus suum et cecidit mortuus. Hoc facto occisi sunt omnes qui tenebantur in custodia.' On this work: Barré, 'Les commentaires carolingiens' (as in n. 75), esp. 65–6, 125–9; C. Jeudy, 'L'oeuvre de Remi d'Auxerre. État de question', in *L'École carolingienne d'Auxerre*, 373–97, esp. 377–8; and P. T. Tax, 'Remigius of Auxerre's Psalm Commentary and the Matthew Commentary attributed to him. Questions of authenticity', ibid., 412–24, esp. 417–22.

[81] Haymo Halberstadtensis, *Homiliae de tempore*, no. 12; *Pat. lat.*, 118, 11–746, at col. 81CD: 'Cumque super sinistram recubuisset, ictum ferientis in seipsum libravit, seque propria manu percussit, atque statim vitam finisset, nisi unus ex amicis qui vicinior stabat, Achiab nomine, manum cum gladio retraxisset. Talem igitur Herodes habuit finem, qui propter Salvatoris odium, multum sangui/[D]nem fuderat innoxium.' Cf. D. Iogna-Prat, 'L'oeuvre d'Haymon. État de question', in *L'École carolingienne d'Auxerre*, 157–79.

final stage. It is tempting to dismiss the attribution of X to Haimo—to whose name it has sometimes been attached—and to date it earlier than the corrupt Macrobius text which finalized the mischief. Then X, with *almost* the suicide, would form yet a further stage intercalated between Eusebius and the corrupted Macrobius, in the slow creation of the suicide. Work on the dating and ascription of those works, however, has not gone far enough to determine what should be done with that temptation. We can only say that, if X really is later than the false Macrobius, it shows how a fragment of Josephus' version could linger even after the essential metamorphosis was complete. As it is, it is hard to say for certain who finally turned Herod's death into a suicide, since, as often in such underhand matters, those nearest the scene of the crime all point the finger of accusation somewhere else. For present purposes the identity of the miscreant does not matter. All that does is to know the deed was done, possibly there and possibly then.

In any event, if Herod's suicide did begin as an Auxerre monopoly it did not long remain one. Chronologically the next reference to it is in the 'A' version of the Anglo-Saxon Chronicle. The early parts of this Chronicle have long been thought to have been written in Winchester marginally later than Haimo's time, at the end of the ninth century. The Chronicle baldly reports for the year ad 3: 'In this year Herod died, stabbed by his own hand.' Other early versions of the Chronicle say nothing of Herod's suicide.[82] That suggests Winchester, if that really was where the 'A' Chronicle originated, had access to a source inaccessible to other scriptoria, and the above hypothesis about the Auxerre origin of Herod's suicide would entail a link between Auxerre and Winchester. While our meagre knowledge of the books read in Winchester at that date does not yield any obvious candidate as literary vehicle,[83] a cultural link between the two centres in Alfred's reign is well-established. Both Haimo's and Remigius' works were probable beneficiaries, and we know for sure that Haimo's *Homilies*, for their part, were carefully read and quoted a century later in Eynsham.[84] So the notion of an Auxerre–Winchester transit for Herod's suicide is at least viable, if far from proven.

What *is* demonstrable is that Herod's suicide gained ground in post-Conquest England. The post-Conquest 'E' version of the Anglo-Saxon

[82] *English Historical Documents*, vol. 1 (London, 1968), 139, quotes the versions, on whose history see A. Gransden, *Historical Writing in England*, vol. 1 (*c.*500–*c.*1307), 38–9. That the change may nevertheless have been made nearer the time of Macrobius is suggested by a hint, at least, of the suicidal version in Gregory of Tours, *Historiae*, bk 1, ch. 24 [ed. W. Arndt, *Mon. Germ. Hist., Script. Rerum Merovingicarum*, vol. 1, pt 1, p. 45. 16–7), [referring to Herod's deservedly dreadful death]: 'accepto cultro ut malum purgaret, propriae se manibus ictu liberavit.'

[83] Cf. N. R. Ker, *Medieval Libraries of Great Britain* (London, 1964), pp. 104 and 199–201; 2nd edn and supplement by N. R. Ker and A. G. Watson (London, 1987), pp. 39–40 and 68.

[84] C. L. Smetana, 'Aelfric and the Homilies of Haymo of Halberstadt', *Traditio*, 17 (1961), 457–68.

Chronicle includes it,[85] and the story is traceable along one strand of historiography right down to the fifteenth century. Of twelfth-century historians to espouse it the most prominent was the cryptic 'Honorius Augustodunensis' (literally 'Honorius of Autun'—though nothing else associates him with Autun). Honorius' *Summa gloria*, written in or around 1111, has a chapter enumerating historical examples of magnates who have opposed priests and come to a bad end. It includes Joash, who killed the prophet Zachariah and was murdered by his own slaves (2 Chronicles 24: 22 and 25), and Azarias (2 Kings 15: 4 and 5) who usurped the priesthood and was struck by leprosy. The next after Azarias is King Herod, who (in Honorius' words) 'sold priestly orders. For that he died by his own hand.'[86] Valerie Flint, a leading authority on this author, dates the *Summa gloria* as the first work Honorius wrote after leaving England in 1110–11, after many years' stay (partly in Canterbury), where he had written all his works so far, and where he certainly would have acquainted himself with writings by the Auxerre school.[87] So he would have had more than one source for the suicide story. We note in Honorius' version the elision of the two Gospel Herods and, for the first time, the anecdote's political context. For Honorius has recruited the compound King Herod into investiture-contest polemic as a proto-simonist, a seller of Church offices (an allegation based on the dubious reading of quite another event in Herod the Great's career).[88] For a simonist no death was bad enough.

Among later medieval representatives of the tradition can be included the English John Mirk, whose vernacular sermon-book the *Festial*, written in the late fourteenth century, was widely copied and read and who, whether from the Anglo-Saxon Chronicle, from Honorius, or from a strand of tradition by now independent, put Herod's suicide firmly among those of Gospel villains. In a sermon on Nero's suicide (another well-known case), John Mirk insists that 'cursed living' invariably leads to a 'foul end', and couples the suicides of Herod and Pilate as two reliable examples. Here is Mirk's message in its Middle English spelling:

> þus deut Herod that slogh the Innocentes; he wyþ a knyf, as he paryd an appul, smot hymselfe to the hert. þus dyde Pylat þat dyd Crist to deþe; he wyþ a payre of scherys that he borowede forto kytte hys naylys wyþ, smote hymselfe to the hert.[89]

[85] See n. 82.

[86] Ch. 32; *Mon. Germ. Hist., Libelli de lite*, 3 (Hanover, 1897), 79.6–7: 'Herodes rex sacerdotium vendidit. Ideo propria manu se interemit.'. (The editor's note reads: 'Unde Honorius Herodem mortem voluntariam sibi conscivisse comperit, incertum habemus'.) Date: V. I. J. Flint, 'The Life and Works of Honorius Augustodunensis with special reference to chronology and sources'. D.Phil. thesis (Oxford, 1969), 95.

[87] Flint, 'Honorius', 61–5, 92–5; his formative learned milieux, 14–32; and familiarity with works of Auxerre school, 43 n. 2, 55, 193, 253, 329.

[88] N. Wiberal, in *900 Jahre Klosterkirche Lambach*, (see n. 74), 176–7.

[89] John Mirk, *Festial*, ed. T. Ebbe, Early English Text Society, extra series, 96 (London, 1905), 194.

The English stage naturally picked up Herod's career as good dramatic material. His death was just occasionally, though far from usually, given in the suicidal version.[90]

Of equal or greater significance is that Herod's suicide entered the chain of English art. It began to do so, once more, at Canterbury, and in a context which only confirms other hints of an origin in Auxerre and Winchester. Herod's suicide appears on a folio which almost certainly belonged originally to the Eadwine Psalter, made *c.*1147 by a member of the community of St Augustine's in Canterbury called Eadwine. The numerous illuminations of the Eadwine Psalter are recognized anyway as betraying influence from the Winchester school, and from the tradition of illustrations to Remigius of Auxerre's commentaries.[91] Herod's suicide is another example. It comes as one of twelve miniatures on this apparently preliminary page, all devoted to pictures (the folio is now wholly separated from the psalter itself and is now on its own in the British Library). The detail is shown in Plate 13(a), which makes plain that Herod is actually killing himself, not merely trying to, since blood spurts from his wound, while a diabolical spirit takes the dying man's soul (shown in the conventional way as a naked child). If it was indeed Eadwine who did this, he was not alone. An unknown contemporary, possibly working in Paris after having borrowed Eadwine's psalter for the purpose, made a copy the meticulousness of whose details betray the special fascination the suicide scene had for him. It is shown in Plate 13(b). The illuminator took the structure of the scene from Eadwine, but paid more attention to certain minutiae, notably—in place, perhaps, of the prominence Eadwine gave to the blood—to the Devil and the departing soul.[92]

The suicide tradition would remain a single, narrow strand in the tradition of illustrations of Herod's death. Two more examples illustrate it. Some fifty years after Eadwine, Herod's suicide appears in an illustrated 'Life of Christ',

[90] P. Doob, *Nebuchadnezzar's Children. Conventions of Madness in Middle English Literature* (New Haven and London, 1970), index under 'Herod'. I find in this book only one positive reference to a successful suicide by Herod (on p. 132), not counting his typological comparison with Saul (on pp. 109–11), though several allusions to Josephus and to the attempt (96, 112–13). While the Fleury play of Herod (*c.*1200) contains no hint of Herod's suicide (ed. T. Bailey, Pontifical Institute of Medieval Studies, Toronto, 1965), the long *Mystère* by Arnoul Greban (*c.*1450), in Arras, Bibl. Mun., MS 697, has Herod announce and complete his suicide on stage; cf. the partial translation by S. Sewell, *The Nativity* [of Arnoul Greban] (Carbondale, Ill., 1991), 107–8. For other dramatic representations see F. P. Knapp, 'Herodes als Antichrist im Lambacher Freskenzyklus, bei Gerhoh von Reichersberg und im "Benediktbeurer Weihnachtsspiel"', in A. Fiebig and H.-J. Schiewer, eds., *Deutsche Literatur und Sprache von 1050–1200. Festschrift für Ursula Hennig zum 65. Geburtstag* (Berlin, 1955), 137–62, esp. 150–3.

[91] Date and circumstances: O. Mazal, *Buchkunst der Romanik* (Graz, 1978), 83–7; and M. Gibson, T. A. Heslop, and R. W. Pfaff, eds, *The Eadwine Psalter. Text, Image and Monastic Culture in 12th-Century Canterbury*. Modern Humanities Research Association, vol. 14. (London and University Park, Penn., 1992).

[92] T. A. Heslop, 'The Visual Sources of the Picture Leaves', in Gibson and others, *The Eadwine Psalter*, 29–34, esp. 33.

made *c.*1200, just possibly in northern England, sometimes known as the Perrins Bible.[93] Herod's suicide illustrates St Matthew's Gospel and is shown in Plate 14(c). Herod's posture on the bed is similar but not identical to that in the Eadwine model, and there is enough difference in accessory details, especially the Devil, to suggest the artist did not have the Eadwine model in front of him. More even than Eadwine, the artist has thrown Josephus to the winds. The only trace left of Josephus' account, the very matrix of the original suicide story, is in the predicament of Herod as a king on his sickbed, and male attendants. The apple (shown as a round disc in Plates 13(a) and (b)) has gone. In the Perrins manuscript as shown in Plate 14, two lines of script below the miniature identify the ultimate source of the story as Remigius of Auxerre: 'Remigius in his original [commentary] *On Matthew* says Herod Antipas killed himself with a knife with which he was peeling an apple.'[94] These lines were certainly added after the illustration, since they are a direct quotation from James of Varazze's *Golden Legend*, compiled *c.*1265.[95] They may have been added as late as the fifteenth century, when the manuscript underwent a refurbishment in the monastic scriptorium of Bury St Edmunds, or under its influence.[96] Also among the refurbishments, illustrations were added on the blank pages opposite the original illustrations, including this one, which received, on the page opposite, a picture of Herod's Massacre of the Innocents.[97] Together, the pair showed clearly that Herod's suicide was nemesis for his cruelty.

A second further development of the Eadwine tradition is in the so-called Peterborough Psalter, made just after 1300. Even while Eadwine and his imitator had been at work, *c.*1147, biblical illustration was undergoing a minor revolution, which happened first, just then, in northern France, but by the end of the twelfth century was all over Europe, including England. It consisted in the extensive use by illustrators of the principle of 'typology', the interpretative device, mentioned earlier in this volume, by which episodes respectively in the Old and New Testaments were paired up into 'types' and 'antetypes'. One or more Old Testament scenes, the 'types', would be juxtaposed with a major episode in the New Testament, its 'antetype', prefigured by its 'type'. Types and antetypes would be set together in groups of two, three, or sometimes

[93] So named from the private collection it was in (that of the originator of Lea and Perrins' Worcester sauce): G. Warner, *Descriptive Catalogue of Illuminated Manuscripts in the Library of E. W. D. Perrins.* 2 vols (Oxford, 1920); vol. 1, p. 4 (no. 22); N. Morgan, *Early Gothic Manuscripts in England.* A Survey of Manuscripts Illuminated in the British Isles (ed. J. J. G. Alexander), vol. 4 (London, Oxford, and New York, 1982), p. 63 (no. 21). Herod's suicide is on fol. 47[r] of the manuscript.

[94] See p. 356, n. 107 below, and Note on p. xxiv.

[95] *The Golden Legend*: below, pp. 355–60.

[96] Date of the script: Warner, *MSS in the Library of Perrins.* My reservations rest only on this reproduction, since the manuscript is still in a (different) private collection.

[97] Refurbishment: Morgan, *Early Gothic Manuscripts.*

more, whose mutual connection was usually made abundantly clear by the addition of captions, saying what each represented. The review of biblical suicides in Chapter 3 revealed that the New Testament was short of completed suicides, and this set typologists an obvious problem. The self-hanged Judas could be paired with the self-hanged Achitophel (as in Plate 6(a)), but, that done, other Old Testament suicides lacked opposite numbers.

It was almost certainly this difficulty that overcame any scruples the Peterborough illuminator may have felt in introducing to his elaborate scheme of typological illustrations an incident not only omitted from the New Testament but, even then and there, probably known to be of imperfect authority. In the miniature shown in Plate 15, Herod's suicide serves as an antetype to that of Saul, like Herod a king, and also, like Herod, killed by his own blade. Nor did the opportunity Herod offered stop there. In the version of Saul's death in I Chronicles 10, Saul's armour-bearer *also* falls on his sword. The typologist has availed himself of the chance to produce a veritable carnage, the earlier two elements prefiguring the third. In Plate 15, Saul and the armour-bearer ('Doech the Idumaean', according to a well-known commentary wrongly attributed to Jerome),[98] can be seen in the left panel, Herod in the right. The core of Josephus' story is now even thinner. None of the attendants is now even a candidate to be Herod's brother, since all are female, consisting perhaps of a nursing sister and a relation tearing her hair, with a grief this version has picked from the air (since no one grieves in Josephus). Meanwhile Herod's blood, spilling out in the shape of a starfish, proclaims the completed suicide. The devil, only faintly visible in a black-and-white reproduction, has two horns, large ears, and a grisly beard. An inscription above draws on an established association with suicide: 'Dire anger thus kills Herod the Great.'[99]

A broad similarity of structure between these four pictures of Herod's suicide suggests a chain must have linked them. Only one link in the chain is easily identifiable, in the form of a lost exemplar for the Peterborough Psalter illustrations. Their typological subjects are known to have been taken, probably indirectly, from paintings on the backs of the wooden choir-stalls formerly in Peterborough abbey, but destroyed by Cromwell's soldiers. The date of the stall paintings can be placed between 1233 and 1245, and their plan roughly reconstructed from seventeenth-century notes and memories. Each stall displayed a trio of episodes, consisting of two types and one antetype,

[98] *Questiones hebraicae in libros II regum*, at ch. 31, verse 5; *Pat. lat.*, 23, 1346A.

[99] For this reading, and an interpretation of the other inscriptions, see Notes to the Plates on p. xxiv above. The psalter: L. F. Sandler, *The Peterborough Psalter in Brussels and Other Fenland Manuscripts: The Study of a Workshop* (London, 1974). (The association of suicide and anger will be explored in *The Mapping of Mental Desolation*.)

and their subjects were broadly the same as would appear later in the psalter. They included the pairing of Saul's and Herod's suicides, but no hint survives of how these were represented.[100]

By the beginning of the fourteenth century, to summarize, the story of Herod's suicide had won favour in one current of English tradition. It had done so progressively freer, at each step, of the factual encumbrances of the Josephan matrix it was born in. But we have seen the tendency of suicide to create split traditions, and here was another. The peculiarity of the Herod story was that it gave us a chance to watch a suicidal myth in the making. It now gives us a chance to watch something else; the keeping at bay of a myth, by the critical-historical sense of the main tradition. The founders of European scholarship, that is to say, did not altogether lose their auto-immune system. Scholars with good libraries still had access to the Latin Josephus with his *Jewish Antiquities*, not to mention the standard *Ecclesiastical History* of Eusebius. Both left no doubt about the incident. We learned earlier that in Auxerre, at the very time when the suicidal version was appearing in the light of day in Remigius and Haymo, Josephus' original was still remembered; so it should not surprise us that it remained buoyant elsewhere. Examples from the literary world are too many to repeat here,[101] but a handful of testimonies from outside that world will, I hope, confirm that it was a critical sense, not mere ignorance, which kept the Herod suicide myth within bounds.

The testimonies to be offered are three. The first is English drama: as indicated a moment ago, the suicide never became regular in stage plays involving Herod.[102] The second and third lie in Herod's similar fortunes in art. For all its appeal to typologists, Herod never became regular in this role. Although the Peterborough choir-stalls and altar are known to have shared most of their typology programme with the early thirteenth-century windows of Canterbury Cathedral, the latter show no trace of Herod the suicide. It is as if in

[100] M. R. James, 'On the paintings formerly in the Choir at Peterborough', *Proceedings of the Cambridge Antiquarian Society*, no. 37 (= vol. 9, no. 1; vol. 3 of new series), 178–84; modified (against immediate dependence) by L. F. Sandler, 'Peterborough Abbey and the Peterborough Psalter in Brussels', *Journal of the British Archaeological Association*, 3rd series, 33 (1970), 36–49.

[101] e.g., Freculf of Lisieux (citing Josephus' *Antiquities*), *Chronicon*, ch. 14 [*Pat. lat.*, 106, 1127D–8A]; Hermannus Contractus, *Chronicon*, §§6 and 45 [*Pat. lat.*, 143, 55A and 56C]; Otto of Freising, *Chronica* (see n. 62), p. 146.1 (at p. 148.30–149.2, Otto makes Herod *Antipas* drown in the Rhône while in exile in Vienne, as if in echo of the Pilate legend, while maintaining a clear distinction between him and Herod the Great, on whose death he clings to Josephus); Bernold, *Chronica*, §§47, 72 [*Pat. lat.*, 148, 1304AB]. I find no trace of Herod's alleged suicide in the numerous miniatures and passages of biblical commentary in Herrad of Hohenbourg, *Hortus deliciarum*, ed. R. Green and others (Leiden, 1979), nor in the wide-ranging works on marginal medieval beliefs by G. G. Coulton. The list of suicides in the late thirteenth-century *Speculum morale* (see above, p. 34, n. 63), significantly qualifies Herod's act, alone, as an attempt ('*voluit* se occidere').

[102] Above, p. 351.

Canterbury, for all that it had been one of the main foyers for transmission of the suicide, stricter counsel prevailed than in the painting workshops further north. Canterbury had the better library, with plenty of good history books in it.[103]

A third healthy symptom in the Josephus tradition is that even artistic programmes most directly exposed to temptation from the Auxerre–Winchester version could still cling to Josephus. How closely, we can see from a single example,[104] a wall-painting at Lambach in Upper Austria, shown in Plate 16. Like Honorius Augustodunensis (if a decade or two earlier) the Lambach artist has incorporated Herod in investiture-contest polemic as a worldly king—perhaps a demonized Henry IV—to be identified as Antichrist.[105] It was of course imperative that such a Herod have a 'bad end', but the Lambach library was well stocked, and while there is no reason to believe it included the Anglo-Saxon Chronicle, it *did* have Rufinus' translation of Josephus. It is the latter's account that is portrayed. Herod's suicidal knife has not yet penetrated his chest, while the prince behind him has grasped the desperate king's forearm clearly in his right hand. (For Josephus' description see p. 345 above.)

The original version therefore held its own, its vigour demonstrating the tension that could underlie any split tradition. For most of the Middle Ages this was a synchronic tension, one felt simultaneously at any one period. It affected the learned in any century after the ninth, and was a counterpart to the slow, diachronic process we have traced in the legend's genesis. More and more scholars must have known of the suicide story. But they knew also, if they had any pretensions to serious learning and access to a library, the subtly but drastically different account, if not of Josephus himself, then of Eusebius or some other sober historian, faithful to the original account. There lay the split, and the tension between legend and hard evidence that touches any age. It did not worry medieval scholars too seriously.

A single example will demonstrate how little it worried them, because it comes in one of the most widely-known works of the later Middle Ages, James of Varazze's *Golden Legend*. The *Golden Legend* includes a section on Herod, indeed on the Herods, in its legend for the day of the Massacre of the Innocents.[106] After tantalizing us with a further reference to 'Macrobius' as a

[103] Sandler, 'Peterborough Abbey' (see n. 100), 39–40, and B. Rackham, *The Ancient Glass of Canterbury Cathedral* (London, 1949), 53–63, esp. 55 and 60.

[104] I avoid, as ambiguous, a Herod in the Gerona Apocalypse, which N. Wiberal, in *900 Jahre Klosterkirche Lambach*, 178, appears to interpret as representing the suicide. My own reading, from the facsimile in *Sancti Beati a Liebana in Apocalypsin Codex Gerundensis* by Urs Grav Verlag (Lausanne, 1962), vol. 2, fol. 15^{v}, is that the second figure from the left is the life-saving Achiab, and that while both apple and knife are distinguishable, both are too far from Herod to suggest suicide.

[105] Knapp, 'Herodes als Antichrist', esp. 137–47.

[106] *Legenda aurea*, ch. 10; ed. T. Graesse (Leipzig, 1850), 65–6. The Macrobius problem: above, 347–9.

source for a Herod tradition (this time, that one of Herod the Great's own children got killed in the Massacre), the Dominican author repeats something like Eusebius' version of Herod the Great's death: the *attempted* suicide, followed (after the execution of his son) by Herod's own death. Then, with characteristic reluctance to choose between versions, James cites Remigius' Matthew commentary as source for the *actual* suicide of Herod, who killed himself with the 'sword', with which he had prepared to peel the apple.[107]

The medieval fortunes of Herod, like the fortunes of Pilate, have demonstrated the strength of the forces that lay in wait to create a bad man's suicide even where none existed. That demonstration can help us read the more salient fortunes, on their appropriately longer trajectory, of the biggest villain of the three. In general, and especially among busy practical people, an abstract idea has effect in proportion as it is given simple articulation, an articulation in which history invariably plays a part. The belief in Judas' suicide helped articulate a curse on suicide and gave it force. The critical historian can see plenty of evidence that the story did not create the curse, only fortified it. The Latin Middle Ages saw things the other way round. To them, Judas' suicide was hard fact. Rather than its being explained by any pre-existing attitude to suicide, *it*, the supposed hard fact, did the explaining. The effect was to render the curse on 'the death of Judas' all but impregnable.

The New Testament account of Judas' death offered one further area of speculation: the psychology behind it.

Judas Rescued

The character and fortunes of Judas form one of the many mysteries in the Gospel, perhaps the most frightening of them all. This is not just because of the act itself, by which a chosen intimate turns his loving Master over to a cruel death. It was above all because of the suggestion the act was involuntary. 'Then entered Satan into Judas Iscariot,' two of the Evangelists say (Luke 22: 3; John 13: 27). Jesus had predicted that one of his disciples—and he knew which—would betray him (John 13: 21, 26). As the betrayal drew near, Jesus told Judas 'That thou doest, do quickly' (John 13: 27). Yet neither Judas' obedience to that command, nor the apparently predetermined character of the whole episode, make things any better for the traitor. 'The Son of Man indeed goeth, as it is written of him: but woe to that man by whom the Son of Man is betrayed! Good were it for that man if he had never been born' (Matthew 26: 24)—as if Judas were predestined to damnation.

[107] *Legenda aurea*, 66: 'Remigius autem in originali super Matthaeum dicit, quod Herodes Antipas gladio, quo pomum purgabat, se peremit.' (See Plate 14.)

That conclusion touches ground which theologians have usually hesitated even to tread, let alone to stand still on for long.[108] But the general problems of Judas' soul—and they are problems largely attaching to human wrongdoing as such—begat a long tradition of commentary and reflection. Judas *qua* suicide was a subject of biblical exegesis, sermons, moral treatises, scholastic *Summae*, and visual art of various kinds. Nearly all the allusions in these media are of the passing kind, Judas being hardly ever treated *ex professo* as worthy of a sermon or treatise all to himself. Perhaps this is not surprising, in view of Judas' lack of redeeming features, though a certain reticence about the suicide as such may have played its part even here. The passing allusions, added together, nevertheless form a quarry whose exploration can throw more light on the curse this volume is exploring. Historians have already begun the exploration in some excellent short studies, nor do they preclude the possibility of wider-ranging ones, but my present purpose can be served more briefly. First, I shall summarize the main traits which commentators attribute to Judas' character, and the motives for his treachery and death, and second, make a closer study of a single sample commentary on the account of Judas' suicide in Matthew 27: 3–10.

As to Judas' character and motives, some of the commentary concerns Judas other than *qua* suicide, and in particular as a miser, and as a Jew. Judas was easily cast, as we saw, as a paragon of avarice, since he had been the disciples' treasurer, had embezzled money, and had taken a bribe to betray Jesus; and all this invited comment in words and in pictures. We saw how, from 1100 onwards, pictures or carvings of Judas gave prominence to his money-bag, abandoned on the ground below him, the thirty pieces of silver countable as they spill from the bag;[109] and how, roughly at the same time as the growth of money satire and for some of the same reasons, hostility grew towards Jews, greedy (as well as treacherous) by definition, so that here too there was no problem about portraying 'him of Judaea' as the quintessential Jew, in another motif tempting to artists, especially as laws tightened about Jews' having to wear yellow. Students of the Judas legends may warn against exaggerating this association of Judas with Jewishness, but some association was there.[110]

For the present, these motifs are secondary. They may have helped to load Judas with curses, but the Judas they loaded was Judas the living villain of the Gospel, not the dead one hanging on a tree. *His* suicide posed a more delicate problem, since at the time of it Judas was deeply unhappy, having said Jesus was innocent after all, and offered his money back. Did this not demand Christian sympathy? An analysis of theologians' treatment of Judas' psychology before his suicide may tell us something about *their* state of mind.

[108] Cf. F. Wendel, *Calvin* (London, 1963), 263–84, esp. 280.
[109] Above, p. 329. [110] Dinzelbacher, *Judastraditionen*, 79–81.

The Gospels themselves say very little on Judas' psychology beyond the awesome assertion that 'Satan' had 'entered into' him (Luke 22: 3). But was Satan still in Judas, we may wonder, in the scene described in Matthew 27: 3–5, when Judas tried to repent? Since I shall be analysing a commentary on these verses in a moment it will pay us to read what the verses actually say:

> When Judas, his betrayer, saw that [Jesus] was condemned, he repented and brought back the thirty pieces of silver to the chief priests and the elders, saying 'I have sinned in betraying innocent blood.' They said 'What is that to us? See to it yourself.' And throwing down the pieces of silver in the temple, he departed.

A common-sense reader might fairly wonder whether Judas could not have behaved *more* satanically at this point, for instance, by keeping his money to spend on a banquet. Instead, he 'repented'. That word translates a Greek verb *metamelomai* (μεταμέλομαι), meaning roughly the same as 'repented'. An old exegetical tradition has often tried to prove otherwise and make this word denote a second-class kind of repentance like 'remorse'. But a trenchant article by the late David Daube has shown that comparison with examples of the verb's use in Greek, and of its equivalent in Hebrew, suggests there is no real basis for this distinction.[111] No doubt that debate will go on, and linguists must settle it. But the very fact of the debate demonstrates this much resemblance between Judas' repentance and his suicide, that the terms in which the Gospel describes both are equivocal. The one certainty, therefore, is again that there is *un*certainty, and that means, in turn, that any interpretations which ignore the uncertainty betray the interpreters' presuppositions.

That double story, of uncertainty and uncertainty, is told at greater length by the exegetical history of the same passages. Still, small voices have occasionally spoken sympathetically of Judas—perhaps in obedience to an apparent rule in human affairs, that however loud the voice of the dominant party there is always a voice antithetical to it, if at times barely audible. Traditions of exegesis, anyway, as of history, can be split, and how their positions interrelate depends once more on the climates through which they pass; so that a favourable climate can make quiet voices sound louder, and vice versa.

The most audible counsel for Judas' defence was for many centuries Origen (†254), the philosopher theologian of Alexandria. Origen's *Contra Celsum* was a polemic against a critic of Christianity, Celsus, who had said Christ's teaching cannot have amounted to much since his main disciples had betrayed him. No, answered Origen, it was not Christ's disciples, in the plural, who betrayed him. Only one disciple betrayed him, Judas, and even Judas kept *vestiges* of Christ's teaching in him, vestiges which, if Celsus had read Scripture properly, he would have detected.

[111] Daube, 'Judas', 307–10.

Although Judas was covetous of money and used to steal the money that was thrown into the bag for the poor, as he repented he brought back the thirty pieces of silver to the chief priests and the elders, it is clear that the teachings of Jesus had been able to put into him some capacity for repentance, and were not utterly and entirely abominated by the traitor. Furthermore, the confession 'I have betrayed innocent blood' was the utterance of a man admitting that he had sinned. See how he was overcome by such agonising remorse when he repented of his sins that he could no longer bear even to live, but after casting the pieces of silver into the temple departed, and went away and hanged himself. By condemning himself he showed what effect the teaching of Jesus could have even on a sinner like Judas, the thief and the traitor, who could not utterly despise what he had learnt from Jesus.[112]

Although this defence of Judas was evoked by a particular debate, it corresponds with a more general position in Origen's thought, that no creature of God, not even Satan (a fallen archangel), was wholly irredeemable—a position buttressed by, among other biblical texts, the Wisdom of Solomon 1: 14: 'God created all things that they should exist.' Redemption might be long-drawn-out but remains possible because God's 'wrath' is something we draw on ourselves rather than a hostile emotion in God. Judas was thus bound to benefit.[113]

Origen's sympathetic treatment of Judas, despite its author's controversial reputation, found echoes in the eastern Church, where influences may also have been felt from a lost, apocryphal *Gospel of Judas*, whose existence we know already in the time of St Irenaeus (*c.*130–*c.*200), and which was apparently known also to Origen himself. Of Gnostic inspiration, the message of the lost Judas Gospel appears to have been either that, since Jesus was mistaken it was right to betray him, or that, if he really did save mankind, Judas' betrayal of him was a necessary link in that act of salvation.[114] This second argument, at least, was known in Greek intellectual circles *c.*400, as witnessed by the pains taken by the great preacher of Constantinople, St John Chrysostom, to refute it.[115] Echoes of Origen's view have also been detected in St Basil

[112] *Contra Celsum*, bk 2, ch. 11; trans. H. Chadwick (Cambridge, 1953), 76–7.

[113] I owe this summary of Origen's views to a communication from Dr Chadwick, though any errors in their formulation are my own. The main texts in which Origen adds nuance to condemnations of Judas, besides that quoted, are *Comm. in Mattheum*, ch. 117; *Comm. in Joannem*, ch. 32, §19(12), and *Comm. in Epistolam ad Romanos*, ch. 9, § 41. Commenting on John 20: 28, Origen writes; 'A totally depraved being could not be censured, only pitied as a poor unfortunate.'

[114] Vogler, *Judas Iskarioth*, 131–2. That Origen knew of apocryphal Judas material is suggested by the following phrase in his Matthew Commentary: [above, p. 99], 245.8–12: 'aestimavit [Judas] enim praevenire in mortem moriturum magistrum et occurrere ei cum anima nuda, ut confitens et deprecans misericordiam mereatur'.

[115] *In Mattheum*, homily 81; transl. in P. Schaff, ed., *The Nicene and Post-Nicene Fathers*, vol. 10 (St Leonards, Sussex, 1956), 486–7. Chrysostom neither here nor elsewhere holds out any hope for Judas.

(†389) and elsewhere among Greek Fathers.[116] Around 1100, Theophylact of Ochrida (†1118)—another writer noted, like Origen, for sympathetic readings of disciples' wrongdoing—was to claim that Judas would eventually reach Heaven.[117]

Latin tradition was meanwhile more severe. Only occasionally does a reader pick up any sympathetic implication in the passage in Matthew. In the relative freedom of the Carolingian renaissance, Hrabanus Maurus (†856) will say Judas cannot have been bad by *nature*, or he would not have been able to show those tokens of repentance, inadequate as they were.[118] Paschasius Radbertus (†*c.*860) goes further, in the speculation we heard earlier, that Judas may have hanged himself in the false hope of being in the next world before Jesus, so that he could fall at Jesus' feet and beg pardon, the moment Jesus died[119]—a motif I shall come back to. In the twelfth and thirteenth centuries—with their renewed zeal for Christian loyalty and right thinking—sympathetic hints of this sort are nevertheless few and far between. Even the otherwise adventurous Abelard is firm in Judas' damnation,[120] while it is only the Cistercian Bernard who, despite the many hard words on Judas scattered in his works, can tell depressed novices that the Cistercian rule could have saved even Judas' soul—as it can save theirs.[121] Occasional signs of relaxation appear later. Peter Chanter of Paris (†1197) thought Judas *might* have accepted the money because his family needed it, that is, for a respectable reason.[122] In the thirteenth century, an art historian has identified what she sees as a sympathetic portrait in the ornate screen carvings of Naumburg cathedral, in which Judas, his eyes uneasy and his mouth slightly agape, looks anguished rather than evil.[123] In the fourteenth century, one of the most widely-read of religious poetic allegories, the French vernacular *Pèlerinage* of Guillaume de Déguileville (†1360)—like St Bernard, a Cistercian—compares Judas' confession and repentance favourably with that of many contemporaries, whom he belabours for not confessing often or sincerely enough.[124]

But it was possible to go even further; indeed the whole way. If the last name in this parade deserves more attention than the others it is not only because it

[116] Summarized, with references, by Bayet, *Le suicide*, 341–2, and Dinzelbacher, *Judastraditionen*, 60.

[117] *Pat. graec.*, 123, 459, and 460 (with Latin translation). Ochrida is the modern Ohrid, currently in south-western Montenegro.

[118] *Comm. in Mattheum*, bk 8, ch. 27; *Pat. lat.*, 107, 1126C.

[119] *Pat. lat.*, 120, 930A; cf. p. 196 above.

[120] *Ethics*, bk 1: §§ *Quid propria dicatur penitencia*, and *Utrum generaliter . . . solvere et ligare*; ed. D. Luscombe (Oxford, 1971), 78–9 and 112–15.

[121] Konrad of Eberbach, *Exordium magnum cisterciense*, dist. 2, ch. 5; ed. B. Griesser, *Series scriptorum ordinis Cisterciensis*, 2 (Rome, 1961), 101.28–30.

[122] Dinzelbacher, *Judastraditionen*, 61.

[123] Jursch, 'Judas Ischarioth in der Kunst', 103.

[124] *Le pèlerinage de vie humaine*, lines 9876–82; ed. J. J. Sturzinger (London, 1893), 307.

did go the whole way, but because the example illustrates how elusive such a still, small voice can be. The case is that of St Vincent Ferrer (†1419). He was a Dominican preacher, born in Catalonia and destined, as a preacher, for such widespread fame that a popular cult grew up in his honour straight after his death. Vincent was once said to have preached to a 'large multitude' (which with him usually meant more than could fill a large church or even a piazza) that Judas was saved and in bliss. Evidence of the sermon survives only because it earned Vincent attention from the inquisitor of Aragon, the tireless persecutor Nicholas Eymerich, and Vincent's publicized view on Judas might have got him into trouble if he had not been saved by the protection of a powerful fellow-Catalan, the ambitious churchman Pedro da Luna, who in 1394 had become pope at Avignon in the Great Schism, as Benedict XIII. (Benedict XIII is now recorded as an antipope, but that happened only after the Council of Constance decided between the rivals in 1415.)

Vincent's sermon is recorded in two memoranda prepared in or around 1399 by a group of cardinals in the Roman camp, and therefore determined to depose Pope Benedict. Among charges against Benedict was that he had protected the heretical Vincent Ferrer. Since both memoranda on Vincent's alleged heresy tell essentially the same story, I shall merely quote the more circumstantial. It says:

> That on a certain Easter Day he [Vincent] preached before a huge popular multitude that the traitor, Judas, after selling Christ and after [Christ had been] sentenced to execution by the Cross, was moved by true, contrite, and salutary penitence; that Judas sought with all his might to get access to Christ and have pardon for his treacherous greed; but that he was unable to get near Christ on Mount Calvary because of the throng of people behind and around him, and therefore said in his heart 'since I cannot get near Christ with my corporeal feet at least I shall meet him on Calvary by journeying in my mind, and once there I shall humbly beg pardon from him'; and that he did this by hanging himself with a noose, and his soul flew thence to Christ on Calvary aforesaid, and there he begged for pardon, which Christ granted at once; and that from thence Judas rose with Christ into Heaven, where his soul is blessed with those of the other elect.[125]

The account of Vincent's sermon ends by identifying witnesses who will testify that this is what he said. They are 'very many cardinals', who had heard the whole account, 'singula per ordinem supradicta [the whole story told in

[125] The document is printed by H. Fagès, *Histoire de saint Vincent Ferrier*, 2 vols (Paris, 1893–4), vol. 1, Appendix I [the 'I' there is a letter, not a numeral], pp. xxii–xxiii. Père Fagès dismisses the story as mere 'calumny' [ibid., pp. 95–6] and in the enlarged second edition of his *Histoire* (3 vols, Louvain and Paris, 1901–4), cf. 73–4, omits this documentation altogether. The shorter memorandum is printed, from a manuscript then in Jumièges, as part of a *Consultatio de recusanda obedientia Petro de Luna*, by E. Martène and V. Durand, *Thesaurus novus anecdotorum* (Paris, 1717), vol. 2, cols. 1181F–2B.

detail as it happened]' from the inquisitor, who had come in person to the Curia to tell his tale.

The veracity of this account has been challenged, but only on the grounds of what is thought likely of the parties involved. Granted that St Vincent may or may not have repeated the story as something he believed the only actual inconsistency is a demur about dating, easily soluble. Pedro da Luna became pope on 28 September 1394, more than a year after Eymerich's exile (for excessive severity) from Aragon.[126] But a date on 29 March 1393 (Easter Sunday) would not be impossible, and would suggest the following order of events. One or more of Vincent's congregation had grumbled to Eymerich, who heard the complaint with sympathy, called in more witnesses, and prepared a dossier. But Vincent had by then already been appointed resident confessor to his countryman, Pedro da Luna, by then a cardinal. On becoming pope as Benedict XIII, Pedro sent for the inquisitor's dossier against Vincent and 'had it burned, and the whole matter suppressed'—to quote the memorandum. Soon afterwards Eymerich, now exiled, and in disgrace in Pedro da Luna's native kingdom, went off to Rome to win the ear of the cardinals of the rival Roman obedience; whence the surviving account.

It is unlikely that Vincent—or Nicholas Eymerich for that matter—made the story up. Its nearest theological *point d' appui*, available in any good theological library, is Origen's view, quoted on p. 359, that Judas' repentance had been sincere. This or a similar story was probably known to Origen, and may underlie Paschasius Radbertus' speculation that Judas might have had this object—quick access to Jesus to obtain pardon—in mind when he hanged himself.[127] If so, Paschasius, at least, knew better than to give legends like this publicity, since this one has the ring of just the kind of heretical apocrypha condemned as 'not to be received' in the famous Decree attributed to Pope Gelasius (492–6). What little we know of the *Gospel of Judas*, mentioned in and after the second century by St Irenaeus and others, suggests too heroic a character to fit the suicide-as-repentance motif. But we do have hints that a tradition resembling that in the Vincent Ferrer story survived in the east. One is an eighth- or ninth-century Coptic apocryphum, *The Acts of Andrew and Paul*. (That a tradition was preserved in Coptic, the demotic Egyptian dialect, is far from showing it was peculiar to Egypt: many otherwise lost Levantine traditions survive only in Coptic versions.)

This text, *The Acts of Andrew and Paul* tells how Paul—our *Saint* Paul—visits the underworld ('Amente': this was a pre-Christian Egyptian name for

[126] H. C. Lea, *A History of the Inquisition* (New York and London, 1911), vol. 3, 586.

[127] K. Kostermann, rev. E. Benz, eds., *Die Origenes Mattäuserklärung* (as on p. 99, n. 20), 245.9–13: '*ἴσως δὲ ᾠήθη προλαβὼν τὸν Ἰησοῦν τεθνηξόμενον καὶ ὑπαντήσας αὐτῷ ἱκετεύειν γυμνῇ τῇ ψυχῇ ὁμολογῶν τὴν καθ' ἑαυτοῦ κρίσιν, ὡς δεχθῆναι αὐτοῦ τὴν ἐξομολόγησιν.*'

the underworld).[128] In Amente, Paul finds Judas and hears how he had repented for his betrayal of Jesus, given back the money, seen Jesus, and pleaded for forgiveness. Jesus had told him to go to the desert to repent, and there fear no one but God. But the 'prince of destruction' came and terrified Judas into worshipping *him*. I continue in the words of the summary by M. R. James and J. L. Elliott:

> in despair he thought to go and ask Jesus again for pardon; but he had been taken away to the praetorium. So he resolved to hang himself and meet Jesus in Amente.[129]

Jesus came to Amente and rescued all *except* Judas; but since Judas' continued presence there led the powers of Amente to boast that they must still be stronger than Jesus, Jesus ordered the archangel Michael to take Judas' soul away too. But Jesus then 'told Judas that he had destroyed his own hopes by worshipping Satan and killing himself'.[130] And Judas was 'sent back till the day of judgement'. On his visit to Amente, now desolate and with its gates broken, Paul had seen, besides Judas, a few souls still in punishment—'the murderers, sorcerers, and those who cast little children in the water'.

The survival of a story of this kind in the eastern Church is also confirmed by a passage in the Commentary on St Matthew's Gospel by Theophylact of Ochrid (in the Balkans), written within a few years of 1100. Apropos of Judas' suicide, Theophylact's words echo and expand Origen's brief reference to the legend. He writes

> certain people say [*legousin*] that Judas, being greedy for money, hoped to make a lot out of his betrayal of Jesus without Jesus' being killed, since he had escaped often before. But when Judas saw Jesus arrested and condemned to death he was struck by contrition [*metemelēthē*] that events had turned out otherwise than expected, so he hanged himself in order to get to Hell first, and procure his salvation by throwing himself on Jesus' mercy.[131]

Theophylact goes on to refer to other fragments of Judas legend, including that the tree on which Judas hanged himself bent double so that Judas survived for a life of penance, and that in the end he died because he fell over and his intestines 'burst out', as told in Acts (the Greek Church was not subject to

[128] F. Dunand, 'Pratiques et croyances funéraires en Égypte romaine', in *Aufstieg und Neidergang der römischen Welt*, pt 2, vol. 18(5), ed. W. Haase (Berlin and New York, 1995), 3216–3315, at 3201. The more general question of possible Egyptian influences in Christian eschatology is the subject of E. Brunner-Traut, 'Altägyptische und mittelalterliche Vorstellungen von Himmel und Hölle, Gericht und Auferstehung', in that author's collected *Gelebte Mythen*, 3rd edn (Darmstadt, 1988), 60–85. Cf. pp. 582–3 below.

[129] James and Elliott, *Apocryphal New Testament* (see n. 59), 301. [130] Ibid.

[131] *Comm. in Matt*, 27: 3–5; *Pat. graec.*, 123, 460B: '*Τινὲός δε λέγουσιν ὅτι ὁ Ἰούδας φιλάργυρος ὢν, ὑπελάμβανεν, ὅτι αὐτός τε κερδήσει τὰ ἀργύρια προδοὺς Χριστόν, καὶ ὁ Χριστὸς οὐκ ἀποκτανθήσεται, ἀλλὰ διαφύγῃ τοὺς Ἰουδαίους, ὡς πολλάκις διέφυγε. τότε δὲ ἰδὼν αὐτὸν κατακριθέντα, καὶ ἤδη καταδικασθέντα ἀποθανεῖν, μετεμελήθη, ὡς τοῦ πράγματος ἀποβάντος παρ' ὅπερ ὑπελάμβανε. Διὸ καὶ ἀπήγξατο, ἵνα προλάβῃ τὸν Ἰησοῦν ἐν τῷ ᾅδῃ, καὶ ἱκετεύσας σωτηρίας τεύξηται.*'

Jerome's mistranslation of *prēnēs genomenos*). Theophylact's allusions make it clear these stories survived in the east if only, perhaps, in large part, by oral tradition.

In the west, before Vincent Ferrer, we have only Paschasius Radbertus' glancing allusion to suggest the legend was known at all, and in so far as it was, it stayed deep underground. The story's resurfacing in the late fourteenth century may have owed something to the westwards drift of Byzantine libraries in the long run-down between the Venetian and Ottoman conquests of Constantinople; perhaps, even, to one or more of the Catalan ships which swarmed in the eastern Mediterranean in that century, and could have brought some back, with this legend in it, to the Barcelona Blackfriars. In the west, at all events, the subject of Vincent's indiscretion was at once reburied by the course of Church politics. The kingdom of Aragon needed a saint. It also needed a pope more authentic than Pedro da Luna. It finally got the latter in 1455, when the aged Alfsonso Borgia became Calixtus III. Calixtus, the moment he was installed, did his duty by canonizing Vincent Ferrer, and the embarrassing story about the sermon on Judas got quietly forgotten. There must be no doubt about a saint's orthodoxy.

That a canonized saint could repeat a legend that took Matthew's account of Judas at face value, and get into trouble for it, illustrates the now familiar anomaly. The Gospel admitted two interpretations but only one was allowed. Where Matthew explicitly stated that Judas *did* repent, nearly all medieval theologians said he did not. Judas was cursed. So he could not possibly have repented, something only good Catholics could do. *Poenitentia*—Jerome's translation of *metameleia* (made at a time long before confession and penance were a regular Church sacrament)—had to mean something different.

The conceptual devices by which it was helped to do so will be further explored in the next chapter, but for now, and to conclude this one, it will help round off our investigation to descend from general to particular, and see, by way of a single representative example, how a commentator actually treated the account of Judas' repentance—or whatever it was—and suicide, in Matthew 27: 3–5.

A Fourteenth-Century Commentary on Matthew 27: 3–5

Among many possible candidates,[132] the commentator who suggests himself as example is a Franciscan friar, William of Nottingham, who was his order's theology professor in Oxford around 1312, and died as its English head

[132] Quotations from a number of Judas commentaries are given by Sachs, 'Religious Despair' (as on p. 191, n. 13 above), 241, 244 and 254; and Snyder 'The Left Hand of God' (as on p. 380, n. 23), 34 and 53.

proably in 1336.[133] William's Gospel commentary is in fact based largely on another, written by an Augustinian canon in the twelfth century. If from that angle it gives us 'two for the price of one' as a sample, from another, that of the Oxford Franciscans, it reflects a tradition which, since the order's arrival in Oxford a century earlier, had laid renewed stress on the importance of biblical study as the basis of theology.[134]

On the verses Matthew 27: 3–5 William writes a total of about 600 words, roughly a third of which consist of quotations from older authorities: John Chrysostom, Bernard (or a writer he takes to be Bernard), Leo the Great, and (with a line each) Jerome and the commentators of the *Glossa ordinaria*. There is no trace of Origen, but that is not to say William is wholly insensitive to the credit side of Judas' account. Mere concentration on the text, *à la* Grosseteste, saves him from that. For Judas' restitution of his ill-gotten gains contrasts favourably, William acknowledges, with the behaviour of present-day usurers and simoniacs.[135] The commentator even admits that Judas *did* confess his sin, after a fashion, and told important truths in doing so—'shining' truths, a patristic authority called them—truths on three fronts: that it was homicide of which he was guilty; that it was his own fault; and that Christ was innocent.[136] (William is here glossing the words 'I have betrayed innocent blood.') William allows, in one sense, Leo the Great's view that Judas was the wickedest man that ever lived,[137] but if, as the *Glossa ordinaria* suggested, Judas' conduct was soberly compared with that of the Jews who actually did the killing, then it was clearly the Jews who had the greater malice. The Jews did an additional wrong, too, in rebutting Judas' attempt at penance, while in crucifying Jesus they actually enjoyed what they did, as Judas did not.[138] And

[133] B. Smalley, 'Which William of Nottingham?', in her *Studies in Medieval Thought and Learning* (London, 1981), 249–288, esp. 252–3 and 260–4.

[134] Oxford, Bodleian Library, MS Laud Misc. 165. The section on Mt. 27: 3–5 is in fol. 531^{r}. I have slightly rearranged William's material but have tried to include and explain all its relevant substance.

[135] MS Laud Misc. 165, fol. 531ra: 'Et notandum est quod si Judas restituit pecuniam male adquisitam, quomodo usurarius et qua fronte tenet usuram, vel symoniacus prebendam.'

[136] Fol. 531^{rb}: 'Confitetur tamen tria. Dolum, ibi 'tradens'; homicidium, ibi 'sanguinem'; nequitiam, ibi 'justum', quod dicit non propter culpam suam, set propter iniquitatem meam illum tradidi. Chrysostum: "Vide veritatem undique fulgentem, proditor de se ipso dat testimonium."' The quotations from St John Chrysostom do not appear in his Commentary on Matthew, nor in the Chrysostom passages quoted in the *Glossa ordinaria*. I have been unable to trace them.

[137] Fol. 531^{rb}: 'Contra Leo papa dicit "Sceleratior omnibus o Juda et infelicior extitisti"' [*Sermo* 53, *De passione Domini*, 3, ch. 3; *Pat. lat.*, 54, 320a; quoted in the *Glossa ordinaria* ad loc.]. Respondeo: Judei et Judas se habent in peccato, ut excedencia et excessa unde peccato magnitudinis plus peccavit Judas, quia de pluribus beneficiis ingratus fuit.'

[138] Fol. 531^{rb}: 'Chrysostom: "Accusacio sacerdotum est quod non egerunt penitenciam in Juda penitente". Hic queritur super illud "peccavi tradens sanguinem iustum". Glossa: "quanto magis qui emerunt, ergo Judei plus peccaverunt." [Margin: Judei an plus peccaverunt quam Judas]. Contra Leo papa dicit: "Sceleratior omnibus [see n. 137]". . . . Set Judei plus affectu malignitatis quia ex maiori libidine eum interfecerunt.'

was not the Jews' stubbornness, asks the commentator in concluding this section, set in higher relief by their stony response to the remorse of their victim's renegade disciple?[139]

In these ways, the commentator responds to the ambivalence of the Gospel account. For all that, William still has to damn Judas, and this means he has to prove Judas' repentance invalid. It should be remembered that friars were in the 1230s and 1240s in the vanguard of the Church's attempt to get all Christians to confess properly, and William's argument on Judas' repentance bears marks of this initiative. He says the repentance was induced 'not by the love of God but by the enormity of the deed'. Judas 'weighed' his deed in the wrong way: not by the well-tested and uniform 'weight of the sanctuary' (as exemplified by the psalm verse 'I said "I will confess my sins to the Lord" and thou didst forgive the iniquity of my sin' (Psalm 32: 5)), but rather by the inaccurate and misleading 'public weight' as used by Cain, who said 'My sin is too great for me to deserve pardon' (Genesis 4: 13). That remark of Cain's will reappear in the next chapter as voicing the authentic theological idea of 'despair'. It need only be noted now that William, in this perfectly conventional commentary, whisks Cain's remark forty books forward from Genesis to apply it to Judas.[140]

Judas' confession would have been invalidated by these considerations alone (the commentator insists), but there were two more. The priests to whom Judas confessed were not 'his own' priests (confession to one's 'own priest' had been stipulated in 1215 by canon 21 of the Fourth Lateran Council) because they were not of the proper faith, the Jews' sacerdotal orders having been voided by the coming of Christ. Finally, Judas' supposed confession was too brief and scanty, a charge in palpable tension (betrayed by the word *tamen*, 'nevertheless') with William's simultaneous admission that Judas had still managed to tell the essential truth.[141]

[139] Fol. 531va: 'Mirabilis induratio Judeorum, quos nec confessio peccati nec restitutio precii nec operacio proprii stipendii emollivit, quia nec penitenti nec proicienti nec se suspendenti inde crediderunt.'

[140] Fol. 531ra: '*Penitentia ductus*: id est angustia quadam non propter amorem dei set propter enormitatem rei tristis fuit et desperavit. *Penitentia inquam ductus retulit xxx argenteos.* Ecce restitutio inde principibus sacerdotum et senioribus a quibus male acceperat. . . . *Retulit inquam dicens.* Ecce confessio Judae [v.4] *peccavi tradens sanguinem iustum.* Non valuit autem Jude iste confessio propter tria. . . .' Fol. 531^{rb}: 'Secundo ex parte illius a quo fiebat, quia desperatus erat, unde etsi aderat dolor cordis et oris confessio et restitutio corporis, operis tamen deerat spes salutis. Ideo Judas penitencia ductus ponderavit peccatum non pondere sanctuarii. Pondus sanctuarii est de quo peccator "dixi confitebor adversus me iniustitiam meam et tu remisisti impietatem peccati mei." [Ps. 32:5] Pondus pupplicum de quo Gen. 4 [:13]: "maior est iniquitas mea quam ut veniam merear", verba sunt Cayn.' I have again changed the order of William's arguments.

[141] Fol. 531ra: 'Primo a parte illius cui fiebat, quia non proprio sacerdoti et fideli iam enim Judei amiserunt officium sacerdotis, nec erant de ecclesia, nec merito nec numero . . . Tertio ex parte confessionis uia muta sive minuta et insufficiens. Confitetur tamen tria . . .' [see n. 136].

There is much, then, in William of Nottingham's commentary that reflects the problems and ambiguities in the Gospel story. Judas did tell the truth and did show that he was sorry, but made all sorts of mistakes—technical though some critics might think them—in the way he did so. The friar seems to be pulled in two directions: by the words in front of him, and by a determination to put Judas totally in the wrong.

This impression grows stronger in the light of one last element in the commentary on these verses, present throughout: the suicide. Despite all arguments in the other direction, William in the end accepts Leo the Great's view that Judas was 'the wickedest and unhappiest of all men',[142] the Jews not excepted. While Leo had justified his view partly on the grounds that Judas, as a disciple, had enjoyed greater favours than other men,[143] there was something even more important in Leo's mind: the suicide, the end that damned all before it.[144] While our commentator attributes this way of thinking to Leo, his own argument obeys the same rule, so that throughout we sense it is Judas' suicide, not any of his other offences, that seals his moral fate, the invalidity of the repentance and confession being engineered for this purpose. William quotes from a writer he believes to be Bernard of Clairvaux to underline how fitting it was that Judas' wicked career should end by a self-hanging: 'He had long since hanged himself privately in the noose of avarice and now it was right that he be punished publicly by the same means.'[145] Again, 'having handed over his money to the temple he handed himself over to the noose.'[146] William concludes with his own 'three reasons' for the fittingness of Judas' self-hanging. It made Judas co-resident with demons who dwell in the middle air; it directed punishment at the organ that had made the treacherous bargain, namely the throat; and it displayed Judas 'between heaven and earth', as hateful to both.[147] The modern reader may feel it is less that Judas' hanging made a fitting end to his previous acts than vice versa, that is, that William has

[142] See n. 137.

[143] Fol. 531^{rb}: 'Unde peccato magnitudinis plus peccavit Judas, quia de pluribus beneficiis ingratus fuit'.

[144] Fol. 531^{rb}: 'Leo autem papa loquitur non tantum de peccato prodicionis, set etiam desperationis, unde addit, "et quem prima penitencia non revocavit ad dominum desperacio traxit ad laqueum" [loc. cit.].'

[145] A quotation from *Meditatio in passionem et resurrectionem domini*, ch. 7, §176 [*Pat. lat.*, 184, 753AB], then attributed to St Bernard of Clairvaux: ' "Iam diu a Christo abierat et avaritie laqueo se suspenderat. Set quod fecerat in occulto iam omnibus patuit in pupplico et exterior qualitas supplicii, quia per que peccat quis, per hec torquetur" '.

[146] 'Bernardus [ibid., 753A]: "maluit se quam denarios perire denarios enim templo seipsum laqueo tradidit." '

[147] Fol. 531va: 'Sunt autem tres rationes quare tali morte decuit proditorem interire. Primo ut elevatus in aere, socium demonibus se ostenderet in hoc aere caliginoso habitantibus. Secundo quia paciscendo locutus fuerat in gutture punitur et arterie que vocem proditionis emiserat puniretur. Tertio ut celo et terre exosus ostenderetur.'

coloured his reading of Judas' betrayal and repentance by the final suicide. As with the historical split tradition, fused by the curse to suit its own purposes, so here, horse and cart are reversed in order to uphold, in the very eye of a biblical text, and independently of how Judas actually died, the curse on self-murder.

With William of Nottingham's commentary, we end a survey of one zone of what I called 'occasional' theology. The theology of an Oxford-trained friar, least of all one so traditional in his views as William, can hardly be called occasional. The horizontally divided compartments I have distinguished were not, in fact, wholly separate, but rather overlapping areas on the surface of a cone, of which the apex was pure theology, the base occasional and contaminated. Between such areas, influences can pass both ways, with the consequence that occasional theology could creep up the side of the cone and even affect a friar-scholastic. William acknowledged that Judas did recognize his own wrongness and Christ's innocence. That is more than would have entered the head of a boisterous, non-scholastic Judas-hunter. But the curse influenced both, whether pure or in alloy, and if it seems, to the naked eye, that the curse began with the Gospel Judas and passed via Gospel readers down to the village Judas-hunters, this chapter has shown that the current flowed also the other way. Whatever Judas may have done *for* the curse on self-murder, his own fate in medieval culture was largely sealed by it, however much that may have cost in historical or exegetical special pleading.

We have been considering in this chapter a part-historical, part-allegorical figure powerful in the medieval imagination, *Judas desperatus*, and have so far concentrated on the first half of his name. The next chapter will turn to the second, and investigate certain features of the medieval fortunes of one word: *desperatio*.

11

The Sin of Despair

'Happy families are happy in the same way. Unhappy families are unhappy in different ways.' In a moral sense, Tolstoy's aphorism applies also to individuals. Moral people are moral in the same way; immoral ones immoral in different ways. There are exceptions, among individuals as among families, but the rule holds at one level. Nor is it without its logic. A shared culture implies a shared ideal of happiness but puts no limit on the number of ways people can fail to reach that goal. This was certainly the case with the ideal of the medieval Church. Medieval saints were saintly in more or less the same way, while its sinners were sinful in different ways—one of several reasons, incidentally, why Dante's *Inferno* makes a better read than his *Paradiso*. But the fact is not just a whimsy of hagiographers. The holy men even of different religions share common features—the vigils, the fasts, the beard, the simple clothing—and the same is true even lower down the scale of saintliness, since perfectly ordinary people, who strive no higher than to lead reasonably moral lives, know that they must strive for all virtues at once and that a single vice can ruin everything, as it does in dramatic tragedies. With vice it is the other way round. You cannot, however hard you try, have *all* vices, because one weakens the effect of another—as laziness does of cruelty, avarice of gluttony. With virtues you cannot pick and choose. With vices you must.

In Volume I of this book, *The Violent against Themselves*, this principle shaped the parade of those who had committed suicide. They were unhappy in different ways, so they came before us one by one, alone. In this chapter, the principle will have a different function. We are looking now at the happy people who did *not* commit suicide, and the way they read the psychology of the *un*happy ones, and we shall see that these happy people translated that psychology into terms they themselves could understand. This meant making the unhappy people unhappy in the same way. This kind of simplification of other people's motives, to suit our own world-view, is far from unusual, though it is usually unconscious and hides itself by various devices. We often call it 'stereotyping'.

Among the devices, in recorded historical thought, was a certain linguistic *double entendre*. A linguistic *double entendre* involves the use of a word to mean different things in different settings. No one notices, because all are in a silent conspiracy *not* to notice. That is always happening in politics with words like 'freedom' and 'justice' which, when you pause to think about them, are nearly always used to mean one *sort* of freedom or justice. Since devices like this are the result of the timeless strains of social life, we should positively expect them to turn up in medieval ethical vocabulary, as in modern, even before looking at evidence on the subject. In fact there is evidence. In another medieval context the same was true, for instance, of the word 'prudentia'.[1] *Prudentia* meant 'worldly wisdom' in some medieval contexts (travelling armed), divine wisdom (being virtuous) in others. The difference was unflagged, and was scarcely noticed because it served the useful purpose of cementing social and religious ideals into a single organism. It helped Christians to be worldly-wise with a good conscience.

Here it is not 'prudence', but another ethical term, which will prove to have been subject to *double entendre*. The term is one most commonly used to describe the state of mind immediately before suicide: *despero*, with its derivative noun *desperatio*. The word came into medieval vocabulary from two origins, whose uses of it fused, to allow use of the term to mean either of two things, without anyone's noticing its double character. I hope to show how this happened by examining the meanings of *despero* and its cognates, with the aim of discovering two things: first, what meanings the word had, context by context; second, what the ensemble of meanings reveals about the mental recesses of those who used them. A survey of this kind cannot hope to be exhaustive, but can, I hope, demonstrate this one relatively simple thesis.

The Twin Roots of Medieval Ethics

Mental recesses are a subject for psychology, and since much of this chapter will be about contexts, I shall begin with a few words about medieval psychology as a whole, the context in which moral vocabulary developed. This psychology was mentioned briefly in Chapter 7 in respect of changes in the moral theology of suicide, but now our subject of investigation is not an act, suicide, but rather its antecedent state of mind, despair. So the acquaintance must be taken deeper. The word 'psychologia', source of our own modern word, happens to be a Renaissance Latin invention, constructed of Greek

[1] These usages are documented in my *Reason and Society* (Oxford, 1978), 132–6.

parts but itself never part of classical or medieval vocabulary. *Psyche*, on the other hand, only means 'mind' or 'soul' and normally found its way into medieval Latin as *anima*. Since the *anima* was the main interest (under Heaven) of all theologians, we could as well say medieval theology was nearly *all* psychology. In practice, the term is only useful when describing those areas of philosophy which looked at *anima* as 'mind'. This included the will, whose existence and essential freedom were assumed by all scholastics. Because the will could make right or wrong choices, and configurations of these could be analysed in the hope of reducing them to a system, psychology converged with ethics; and it was here, in the ethical sector of scholastic psychology, that the notion *desperatio* found its main medieval home.

Before looking at the word itself, we will gain by looking more closely at this home, and in particular—since I shall be claiming to identify an optical illusion in the use of the word—to observe that it is here, in the word's ethical-philosophical environment, that the optical illusions begin. As an enquirer into medieval culture approaches the door of a Gothic cathedral, guidebook in hand, it may be hard to believe that scholastic ethics was anything other than a single, coherent system, controlling its potentially rebellious material in towering, interlocking systems of numbers, to distinguish the seven virtues, the four elements, the seven liberal arts, and so on. But a comparison of medieval ethical systems shows that, despite many common axioms, they were not coherent. In this, they were like any scientific hypothesis. A hypothesis seeks both to be self-consistent and to reflect reality. It is not a question of doing one *or* the other; the problem is to do both. With scientific hypotheses, any scientist knows, it is usually a case of making constant adjustments to both parts, system and observation. It was the same with medieval ethics. Those with an interest in it had to start with some sort of ethical vocabulary, then apply it, and gradually, as a result of observation, become aware of the need to adjust the vocabulary they began with. We all do this, or should do. Medieval philosophy did it. It is only by grasping the nature of this process that we shall understand the fortunes of any single word or idea in scholastic language—whether *prudentia*, *desperatio*, or any other.

Now as far as systems were concerned, medieval moral speculation was shaped by two quite separate written traditions. One was the Bible. As I hope has become plain by now, the Bible has never been used in total isolation as a guide to personal conduct. The moral example of the Old Testament has usually been seen in European culture as too harsh, that of the New too ambitious, to serve without any gloss whatever as a code of law. Selection and interpretation were therefore unavoidable, and in the Middle Ages inspired a long tradition of commentary. As a vehicle for moral speculation, this commentary had the special quality that it reflected the intractability of ethics as

a subject. We have just seen an example in Judas. Since in biblical history the villains, like the heroes, are labelled as such from the start, their idiosyncrasies have to be explained on that understanding, which we saw as the supreme reason why Judas *had* to commit suicide, and why his attempted repentance *had* to be read as barren remorse. It is the other way round with good characters. Abraham's planned killing of his only son represents probably the worst act a human being can commit, yet became an act of exemplary obedience and faith (Hebrews 11: 17). The mendacity that launched Jacob on his career as patriarch (when he tricked his brother Esau out of his birthright) had to be explained by St Augustine as 'not a lie [*mendacium*] but a mystery [*mysterium*]'.[2] It was the same, as we saw in Chapter 3, with the moral problems occasioned by the suicides of the good characters Samson and Razias, as with the apparently suicidal thoughts of Job,—as Gregory the Great well understood, when he wrestled with the problem of their interpretation.[3]

It is easy to depreciate, as the quintessence of special pleading, the apologetic acrobatics all these problems engendered; but it would also be a mistake. No doubt, if biblical characters had been extracted from their text and treated as moral allegories—as we have seen Nicholas of Bologna do with Judas, and as was done quite commonly in moralistic literature and art—none of the problems would have arisen. In the third volume of this book, we shall see how easily that could be done in poetic allegory. But the ease of moral exposition given by this device was bought at the cost of shallowness. Left in the context of their mysterious narrative, biblical characters and their problems give the measure of life itself. One thing biblical commentary cannot give, after all, and remain faithful to its principles, is a glib answer; it is at least like life in that.[4]

I said medieval moral speculation was inspired by two traditions. The qualities of the second were less mysterious. Precocious exceptions apart, the Greek word *ethica* became a regular part of medieval vocabulary only *c.*1250, with the translation of the *Nicomachean Ethics*. The titles of the most widely-used learned works on ethics before this date pay a more diffused

[2] *Contra mendacium*, ch. 10, §24; ed. J. Zycha, *Corp. Script. Eccles. Lat.*, 41 (Vienna, 1900), 499 [= *Pat. lat.*, 40, 533D]. Medieval discussion: H. Fuhrmann, *Einfluss und Verbreitung der pseudoisidorischen Fälschungen*, *Mon. Germ. Hist., Schriften*, vol. 24, (Stuttgart, 1972), 80–5.

[3] *Moralia in Job*, bk 8, ch. 26, §45 [= 7–16], on Job 7 [ed. M. Adriaen, *Corpus Christianorum, Series latina*, 143 (Turnhout, 1979), 417.37–9] [*Pat. lat.*, 75, 829D]: 'Sed ne ejus dicta a nostri intellectus arbitrium videamur violenter inflectere.'

[4] Any reader tempted to quarrel with these remarks should quarrel also with Franz Kafka, the theme of whose novel *The Castle* was inspired, via Kierkegaard's *Fear and Trembling*, by the Abraham and Isaac story, as explained in the introduction to the first edition of that novel by Kafka's friend Max Brod (reproduced in the Fischer paperback edition of *Das Schloss* (Frankfurt am Main, 1968), 305).

tribute to classical writing: 'Formula for an honourable life' (sixth century); 'Teachings of the Moral Philosophers' (twelfth century); and (thirteenth century, and feeding a fashion) 'Of Virtues and Vices'. The first two of the works under these titles consisted of little more than packs of quotations from classical moralists, especially Seneca and Cicero, who had drawn much of their teaching straight from the Greek Stoics. The Stoics' doctrine that virtue was its own reward and there was no other, meant they set corresponding store by the definition of virtues, which is why they were so good at it.

The growth of Christian moral writing was assisted by the spread of lay sacramental confession, and the preaching that went with it. Because it touched practical morality, this sacramental compulsion had an effect its authors could not have foreseen, and might not have approved. It exposed the shortcomings of the Bible, on its own, as a moral guide; and put a correspondingly higher premium on Greek and Roman ethics. The effect is already visible in the twelfth century, but it would be still more strikingly illustrated in the thirteenth, when (as we saw in Chapter 7) the needs of mendicant confessors played an important part in creating the market for which Aristotle's *Ethics* was translated. Two philosophies of life, Stoic and Christian, thus met and inter-reacted, as they had done before and would do again, the incompatibility of their origins decreeing that their fusion would never be stable. Its instability certainly had disadvantages; but it retained one great merit. It laid scholastic ethics all the more open to a third source of influence, outside both parent traditions. This third source, real-life observation, was brought to bear on scholastic ethics by confessors and preachers as they returned from the field, abuzz with experience.

The interaction of those two traditions, biblical and classical, and their modification by contact with everyday life, left its deposit on the part of scholastic ethics that did endure, and in which the concept of *desperatio* lodged. This was the basic ethical syntax formed by the names and numbered schemes of virtues and vices. Literature on these schemes began to swell during the twelfth century and grew to an immeasurable flood. In the flood, the two traditions, together with their shifting character and modification, remain clear, and especially so in the schemes of the seven cardinal virtues and seven cardinal sins. Perhaps most of us know what these virtues and sins were, but for what lies ahead it may help if I run over them again. The four so-called 'moral' virtues were of classical origin, the favourite set being the four described in the *Nicomachean Ethics*, namely Prudence, Patience, Temperance, and Justice. To these had been joined, with little attempt to hide the suture, the Faith, Hope, and Charity spoken of by St Paul in I Corinthians, 13. These three were grouped, in tribute to their biblical origin, as the 'theological' virtues. Meanwhile the seven main vices, destined in due course to

become the cardinal sins (not 'deadly' except in England, and there only among the unlearned) were Pride, Avarice, Gluttony, Envy, Wrath, Lust, and Sloth (that last word being Aelfric of Eynsham's translation, *c.*990, for the Latinized Greek word *acedia*, also spelt *accidia*). How experimental the whole undertaking was is shown by the existence of an alternative but unrelated set of seven sins organized as the opposites of the cardinal virtues, and hence producing *Im*prudence, *Im*patience, *In*temperance, and so on.[5]

It is in this last series, among the opposites, that the sin of *Desperatio* belongs. It was opposite to the ecclesiastical virtue of Hope, just as in Nicholas's miniature. The elegant paintwork of the miniature certainly makes it seem quite at home (Plate 8). But I have said the apparent cohesion of medieval moral systems can be deceptive, and it is deceptive here. This juxtaposition, as in Nicholas's miniature, raises a question, namely that, since Hope was a theological virtue, that should make Despair a theological vice. But was it, or was it not? Two distinct answers to that question, corresponding to the two distinct lines of ancestry, merged indistinctly in the one word *desperatio*, and gave it the *double entendre* just referred to. The best way to demonstrate this will be by examining the ways words relating to *despero* were actually used in medieval writings, both by theologians and by others who had occasion to use this group of words.

The Word 'Despair' in Context

A study of the use of words related to *despero*, in Latin and the vernaculars, suggests three distinct connotations.

Despair of the present

Not surprisingly the word 'despair' often meant, as it might today, the failure of some perfectly concrete and carnal hope. Thus in miracle stories *desperatio* is employed frequently in respect of a sickness thought incurable before

[5] The authority remains M. W. Bloomfield, *The Seven Deadly Sins: An Introduction to the History of a Religious Concept, with special reference to medieval English literature* ([East Lansing] Mich., 1952); with *mise à jour* by S. Wenzel, 'The seven deadly sins: some problems of research', *Speculum*, 43 (1968), 1–22. The abundance of contemporary treatises on virtues and vices evokes an exclamation from a fourteenth-century English author quoted by A. Brandeis, ed., *Jacob's Well*; pt 1, Early English Text Society, 115 (1900), introduction, p. vi: 'þer beþ so manye bokes & tretees of vyces & vertues and of dyverse doctrynes, þat þis schort lyfe schalle raþere have anende of anye manne þanne he maye owþere studye or rede hem.' The corresponding modern abundance can be gauged from (for instance) E. Faral and J. Bastin, eds, *Oeuvres complètes de Ruteboeuf* (Paris, 1959), vol. 1, 301–3 (listing further studies of the subject with reference to Ruteboeuf's 'La bataille des vices contre les vertus').

the miracle. A sick man is *desperatus* by his doctor. Doctors *desperaverunt* a patient. A patient is 'desperately' ill, and the weakest patients can be said to have 'despaired of life': *vitae . . . desperati*.[6] This was not the private language of lay physicians: from the twelfth century, when appropriate records begin, the usage is to be found comfortably at home also in professional medicine.[7]

Although illness was the main single occasion of this kind of *desperatio*, there were many others, as there would be now for 'despair'. In the eleventh-century miracle stories, for instance, we hear of captives eager for release being told not to 'despair'.[8] In the twelfth century, Abelard was reduced to 'despair' by the uncouth monks over whom he presided.[9] In the thirteenth, with no apparent change in meaning, Italian citizens are reduced to 'despair' by inquisitorial exactions, while a Dominican preacher can blame those who 'falling into tribulation fall simultaneously into despair, conceiving no remedy'.[10] A Paris philosopher will meanwhile be heard to use the word in a military sense as meaning a soldier's foreboding of defeat.[11] This sort of connotation can be found throughout the late Middle Ages, in romance vernaculars as well as Latin. For instance, a fifteenth-century French poet will insist that the turns of worldly fortune should not make anyone yield to *desesperance auscune*.[12]

This usage of 'despair' corresponded with the definition given by psychological texts with no Christian element. Thus the Latin version of Aristotle's treatise *De anima*, written over three centuries before Christ, had spoken of

[6] *Vita et miracula s. Edmundi*, MS Oxford, Bodleian, Fell 2, fol. 23^{rb}: 'ad tantam deveneret miseram, quod nec mortui nec vivi effigiem pretenderet. Desperatus igitur a suis . . .' and *passim*; *Vita Wulfrici*, ch. 105; ed. M. Bell, Somerset Record Soc., 47 (1933), p. 132: 'Medici desperaverant eum'; *Vita s. Bernardi Poen*, *Acta sanctorum, Apr 2* (1675), 692B: 'desperabiliter aegrotasse'; *Miracula s. Fidis*, bk 4, ch. 24; ed. A. Bouillet (Paris, 1897), p. 221: 'promerentur . . . vitaeque desperati celerem reparationem'. This and the following footnotes do not claim to exhaust the examples.

[7] *De secretis mulierum*, bk 7: *De modo medendi*, ch. 2, lines 27–9, ed. S. de Renzi, *Collectio Salernitana*, vol. 4 (Naples, 1856) 148: 'Nam solitis signis inspectis forte timebit / Si super his sermo est, te desperare putando / Plus desperabit, quem desperatio ledet.'

[8] *Mir. s. Fidis*, ed. A. Bouillet (Paris, 1897), App. 3, ch. 3 [p. 243]: 'captivos . . . nihil debere eos desperare'; cf. ibid., bk 1, ch. 33 [p. 80]: 'captivus . . . Huic sancta Fides jamdudum . . . exclamanti jamque pene desperanti, sopitis custodibus, apparuit.'

[9] *Historia calamitatum*, ed. J. Monfrin (Paris, 1962), p. 89.98: 'quanta erubescentia confundarer, quanta desperatione perturbarer . . .'

[10] A. Biscaro in M. da Alatri, 'L'inquisizione . . .', *Collectanea Francescana*, 30 (1960), 398–452, on p. 417; Humbert de Romans, *De eruditione praedicatorum*, bk 4 (Heintke's numbering), ch. 23, in MS Nürnberg, Stadtbibl., Cent. II/17, fol. 91^{vb}: 'quidam incidentes in tribulationes incidunt simul in desperationem de nullo remedio cogitantes.'

[11] Henry of Ghent, *Quodlibeta*, 15, quaestio 16 (Venice, 1613), vol. 1, fol. 396vaCD.

[12] *Chemin de vaillance*, MS London, British Library, Royal 14 E ii, fol. 162: 'Comme Platon le nous devise / Qui dist que auscun en nulle guise / Pour avoirs ne se doit hausser / Ne pour richesse exaucer / Ne desesperaunce auscune / Prendre pour les biens de fortune.'

what its Latin translators called 'diffidentia vel desperatio'. The early eleventh-century Persian philosopher Avicenna had glossed the passage as follows in a treatise which became, after its translation between 1152 and 1166, the most important single textbook on psychology available in Latin:

> Hope is the holding of something in the imagination together with an affirmation or opinion that it will come about. . . . Opposed to hope, as its contrary, is fear, while the privation of hope is disbelief or despair. All these things are matters of judgement.[13]

Aristotle and Avicenna were innocent of Christian theological language, so it is not surprising that this 'Despair' is not presented as the opposite of Christian Hope.

The word *desperatio*, then, had a range of this-worldly meanings reflecting the inverse of this-worldly hopes of everyday life. In that it was much like our word 'despair' today. There were, however, other-worldly ways of interpreting the word.

A gulf between God and the sinner

The Epistle to the Hebrews (11: 1) defines Faith as the 'substance of things hoped for [*sperandarum substantia rerum*]'. The text would be quoted by Dante when he was being examined on his orthodoxy by St Peter in Heaven (*Paradiso* 24: 64)—without naming a source (because everyone knew). This definition of Faith in terms of Hope attests a measure of overlap between these two theological virtues. After all, you cannot have hope of the theological kind without also having faith in what you are hoping for, any more than—as the Epistle says—the other way round. The sharper among theologians were aware of this problem, and repeated St Augustine's observation that hope is only about things future, faith about things past and present as well; and that hope is more particular, faith, general.[14] But even these theologians knew that the overlap was a problem. It had this consequence, among others, if either faith or hope fell short, that the religious connotations of

[13] Avicenna, *Liber de anima*, pt 4, ch. 3; ed. S. van Riet, vol. 2, *Avicenna latinus* (Louvain and Leiden, 1968), 44.18–22: 'spes enim est imaginatio alicuius rei cum affirmatione aut opinione quia erit; desiderium vero est imaginatio rei et concupiscentia eius, et iudicare quod delectabitur in illa si affuereit. Timor autem est oppositus spei ad modum contrarietatis, sed diffidentia vel desperatio est eius privatio. Et haec omnia iudicia sunt aestimationis.' Avicenna's implied equation of *fides* and *spes* should be noted.

[14] Augustine, *Enchiridion ad Laurentium de fide et spe et caritate*, ch. 2, §8; *Corp. Christ., Ser. lat.*, 46, pt 13(2) (Turnhout, 1969), 51.25–31: 'est itaque fides et malarum rerum et bonarum . . . Est etiam fides et praeteritarum rerum et praesentium et futurarum . . . Item fides et suarum rerum est et alienarum'; and 52.35–7: 'Spes autem non nisi bonarum rerum est, nec nisi futurarum, et ad eum pertinentium qui earum spem genere perhibetur.' Among scholastic philosophers to quote this observation was Alexander of Hales, *Summa Halensis*, Inq. 3, tract. 5, sectio 2, quaestio 4, ch. 3 (Quaracchi edition, vol. 3, 1930, p. 679).

despair, as the opposite of hope, could correspondingly often overlap with failures of religious faith. Failure in faith and failure in hope, that is to say, could go together.

This joint failure can be seen in action in many forms. The main one was a belief that the distance between God and oneself was unbridgeable. From St Augustine onwards, theological tradition sometimes understood *desperatio* as a failure to hope for God's mercy. A biblical example was ready to hand. We have met it, imported or intruded into commentary on Judas: the example of Cain. After killing his brother Abel, Cain had said (versions of the Vulgate differed, but the following was the most widely accepted) 'my sin is too great for me to deserve pardon [*maius est iniquitas mea quam ut veniam merear*]' (Genesis 4: 13). The Vulgate did not use the word *desperatio* here. But from soon after St Augustine's time, this was how divines understood *desperatio*. Medieval theologians accordingly read Cain's remark as the very essence of their kind of *desperatio*.[15]

The belief that our sin is greater than can be pardoned meanwhile has other forms and offshoots. The two best documented relate to supposed peculiarities respectively in the sin and the sinner; the views that it is the *sin* which is intrinsically unpardonable, and (a different view though similar in effect) that it is *we* who have not the willpower to abandon sin and for this reason cannot expect pardon. These are distinct but both are aspects of the one, religious interpretation of *desperatio*, and were expressed from early medieval authorities onwards (again, for example, in sermons by St Augustine). In the twelfth and thirteenth centuries, these two kinds of 'despair' were subdivided further. The subdivision was due partly to the fact that all moral doctrine was ramifying around then, and *desperatio* was just one more beneficiary, and partly, and more directly, because of a particular force affecting all moral theology at that period. It is a force I have referred to before and we must return to it for a moment: sacramental confession.

The spread of confession affected the concepts of most sins and virtues, each in its own way. It did so in a particular way with that of *desperatio*. For besides being just another sin for the list, *desperatio*, on the strictly religious interpretation, was a sin directly opposed to the institution of confession itself. *Desperatio* denied God's mercy, of which confession—according to its hard-line apologists—was the exclusive expression. This made *desperatio* a subject of special interest to confessors. We duly find the term in their

[15] R. Jehl, *Melancholie und Acedia. Ein Beitrag zu Anthropologie und Ethik Bonaventuras* (Schöningh and Paderborn etc. 1984), 252, n. 747, on Bonaventura and others. T. C. Potts, 'Conscience', in N. Kretzmann and others, eds, *The Cambridge History of Later Medieval Philosophy* (Cambridge, 1982), 687–704, on p. 689 refers to discussions of this text though without reference to its standard wording (which alone gives the discussion any substance).

manuals, extending to various failures in confession. Other evidence indicates what these failures might be, and the connotations of *desperatio* in the manuals correspond to them. They are principally three. Despite rulings on the frequent practice of confession, not everyone did confess regularly. Those who did, did not all confess completely. And those who confessed completely were not always willing to abandon the sins they confessed. All three shortcomings can be found stigmatized as forms of *desperatio*.

This can be illustrated by a treatise written for confessors by Robert Grosseteste, the same who translated the *Ethics*.[16] In this treatise, Grosseteste makes the word *desperatio* mean, first a denial either of God's power to forgive or of His willingness to forgive even if He had the power (on the grounds that His justice is supposedly too rigorous). Secondly, Grosseteste says, the word can refer to a sinner's own moral capacity, in that he may believe that God both could and would forgive, but that the sinner is, in his own view, too sinful to complete penitential works sufficiently meritorious to earn forgiveness. Thirdly, according to Grosseteste, the sinner may think a particular stipulated penance is too much for him; while finally, in a closely related (and old) meaning, Grosseteste thinks the habitual sinner might regard reform as a practical impossibility, because habit has too strong a grip. So the sinner 'despairs' of his own capacity to reform.

It is among friars, who often acted as confessors, that we would expect a reading of this kind to be most conspicuous; and many examples could be given to confirm this. At the end of the last chapter we saw its effect in William of Nottingham's commentary on Judas. A comparable reading is present also in Bonaventura.[17] A particularly clear example is in the Dominican Frère Laurent's *Somme le roi*. This was a manual written around 1279, often copied for the use of confessors, and destined to become equally influential in its English versions—like the celebrated *Gnawing of Conscience* ('Ayenbit of Inwit').[18] 'Despair'—the English is 'Wanhope'—is there subdivided even more generously than by Grosseteste. Prominent among the 'parts' of Wanhope are the beliefs that God cannot forgive, and that he will not forgive; 'obduracion'; and 'despit of penaunce'. All interpret *desperatio* in ways appropriate to the experience of a confessor.

Narrators of suicidal incidents, completed or aborted, can represent confession as the antidote to suicide *par excellence*.[19] Meanwhile, as we shall see confirmed in a moment in examples from all epochs in the Middle Ages, sui-

[16] Ed. S. Wenzel, 'Robert Grosseteste's treatise "Deus est" ', *Franciscan Studies*, 30 (1970), 218–93, on p. 260.

[17] Jehl, as in n. 15.

[18] Ed. R. Morris, Early Engl. Text Soc., 1st series, 23 (1866); I use below the closer translation made slightly later than *The Ayenbite*, but still in the fourteenth century, called *The Book of Vices and Virtues*, ed. W. Nelson Francis, Early Engl. Text Soc., 217 (1942). 'Wanhope' is on pp. 24–5.

[19] *The Violent against Themselves*, 262–3.

cide was attributed to a state of mind called *desperatio*. Finally, as has just been seen, the confessors who wrote the manuals defined *desperatio* as a failure to believe that God would forgive a person's sin. This trio of interpretations, put together, would suggest that what actually drove people to suicide was a specifically religious motive. People thought they were sinners and that God would not forgive them, omitted to go to confession as a result, and hence killed themselves.

This complex of ideas is perfectly coherent in itself, and it may hold some psychological truth. But how much? Might it not have been the opposite of the truth? People who do not believe God will forgive their sins, after all, or that the sins are too ingrained to admit mending, may be the very *last* to wish to commit suicide, and thereby hasten their appearance before the divine judge. Divines occasionally noticed this. Gregory the Great, for instance, had written in his *Moralia* that it is the humble and repentant who are prepared to abandon this life, not those who do not hope for pardon.[20]

At the very best, and making all allowances, was not this idea of despair, if applied to suicide, a huge oversimplification of the kind made by happy people when they stereotype the unhappy and fail to see that the unhappy can be unhappy in different ways? That this was so is confirmed by the acknowledgement, even by theologians, that there were yet *other* species of *desperatio*, no less pregnant with religious consequence than the one just defined.

Religious or moral indifference

The overlap between *Spes* and *Fides* was reflected, I said, in a corresponding overlap between their opposites. *Desperatio* could imply a lack, not just of Hope, but also of Faith. Many writers expressly drew this conclusion. Thus Bishop Ratherius of Verona, in the tenth century, had said that to doubt God's mercy—'despair' in one theological sense—was tantamount to 'apostasy'.[21] In one old story, retold in Latin in the thirteenth century, we find apostasy

[20] *Moralia in Job*, bk 8, ch. 27 [46]; ed. Adriaen, vol. 1 (1979), 417.3–5: 'qui desperat nequaquam iam sibi parci postulat, et qui adhuc sibi parci desiderat profecto minima desperat.' This implication lurks throughout chs 25–7 [44–6], where Gregory is at pains to give Job's 'elegit suspendium anima mea . . . Desperavi' a pious interpretation, aware that he may be twisting the sense, ch. 26 [45], p. 417, 37–9: 'Sed ne eius dicta ad nostri intellectus arbitrium videamur violenter inflectere, debemus ex posterioribus praemissa pensare.' Cf. Snyder (see n. 23), 50.

[21] *Sermo* 2 (*De quadragesima*), §22; *Pat. lat.*, 186, 692–714; at cols. 701D–2A: 'Sed quia omnipotens est Deus, et ejus pietas nihil aliud, quam ipse est Deus; omnipotens vero pietas ejus, uti et justitia ejus, de quo saltem dubitare apostaticum credimus esse.'

from religious vows similarly put among sequels to despair.[22] The same extreme judgement is implied in a long-standing commentary tradition on that story of Cain, where Cain says his sin is greater than can be forgiven. Cain, according to this tradition, sinned less by killing his brother than by his *desperatio*, that is, by his failure to trust that God could forgive his fratricide.[23] Even the confessors' manuals picked up the connotation of despair as apostasy. In enumerating the 'parts' of despair the *Somme le roi* made one 'part' 'the destruction of the truth of Christian faith', and other manuals of that period and function wrote likewise.[24] The same message could meanwhile be read in the use of the word 'desesperés' in late medieval France to describe persons who had refused the last sacraments and should therefore be refused normal burial.[25]

This association of despair and unbelief is confirmed by other kinds of phraseology. No biblical book issued a stronger invitation to reflect on despair than the book of Job (it was the basis among other things of Gregory the Great's *Moralia*). In Odo of Cluny's sermons on Job, the verb *desperare* is repeatedly paired with words like *murmurare* or *blasphemare*.[26] The same kind of pairing occurs in later centuries. One is in a story by Jacques de Vitry of a gambler who loses his fortune and begins to 'despair and blaspheme', before going off to renounce allegiance to Christ.[27] Yet further signs for the association are found in some vernaculars. According to an Austrian scholar, *desperatio* was often translated by *zwîvel* in Middle High German, and by *cagati* in the corresponding Slavonic, both terms generally implying 'unsureness' or 'renunciation of religious belief'; an association,

[22] Jacques de Vitry, *Exempla*, §81; ed. T. F. Crane (London, 1890), 37: 'qui spiritu fornicationis temptabatur. Cumque ille desperans iret ad seculum . . .'

[23] e.g. Innocent III, *Sermo 9 in festo conversionis*, *Pat. lat.*, 217, 419, quoted by H. Tillmann, *Innocenz III* (Bonn, 1954), 248–9. Further references are gathered in S. Snyder, 'The Left Hand of God: Despair in medieval and Renaissance Tradition', *Studies in the Renaissance*, 12 (1965), 18–59, on p. 32, n. 63.

[24] As in n. 18, §6 [p. 25]: 'þe sixte is to destroie treuþe a mannes witynge, and namely þe trewþe of cristene faiþ.' Cf. the long *distinctio* on despair in the *Speculum morale* (as on p. 341, n. 63), fos. 223vb–224vb, which includes among the seven *nocumenta* of despair—à la Cain—its destruction of every spiritual good.

[25] Jean Boutillier, *Somme rurale* (Paris, 1538), fol. 84^{r}: 'Or sachez que selon les sages la maniere de desespoir si est ceste: cest assavoir par dix jours ou plus en ait este grievement malade: ait refuse a estre accommunie & adresse de son sacrement iacoit ce quil leur ait este offert et meurent en telle maniere.' For the general presence of this principal in northern—and some southern—French law: P. Timbal, 'La confiscation dans le droit français au xiii^{e} et xiv^{e} siècles', *Revue historique de droit français et étranger*, 21 (1943), 53; cf. F. Pollock and F. W. Maitland, *The History of English Law*, 2nd edn, ed. S. F. C. Milsom (Cambridge, 1968), vol. 2, at n. 5.

[26] By Odo's 'sermons' on Job I refer to the last chapters of Odo's *Collationes* (bk 3, esp. chs 33–53) [*Pat. lat.*, 133, 578–638]. Juxtapositions of despair with either *murmuratio* or *blasphematio* occur in chs 26 [col. 618B]; 38 [cols. 620D, 621B, 622B]; 39 [col. 6243A]; and 51 [col. 635B].

[27] As in n. 22, §296 [p. 124].

this author adds, increasingly dominant towards the end of the Middle Ages.[28]

Once moralists had moved away from the narrower meaning of *desperatio*, then, they allowed it also to imply a more radical failure in belief. The gates were now open. Unhappy people could be unhappy in ways beyond counting. One connotation of the medieval *desperatio* was the same as that of the modern international term *desperado*, which today envisages less a state of mind, coldly analysed, than a relationship of one man with a multitude: the *desperado* is the person dangerous to a community and likely to behave irrationally. To recall the view of Justinian's lawyers about someone who had attempted suicide; someone who had done that could 'dare anything'.[29] We find, appropriately, that in thirteenth-century French a *despéré* can wander distractedly on rocks in so dangerous a way that he falls to his death;[30] that an author will warn his reader against the 'desperation' of social inferiors because it may lead them to harm him;[31] and we learn of a proverb (this one in Scotland) to the effect that 'despair' makes a man bold.[32] The theologians' narrow definitions have been left far behind.

[28] L. Kretzenbacher, 'Zur Desperatio im mittelhochdeutschen', in *Verbum und Signum. Beiträge zur medievistischen Bedeutungsforschung. Studien zu Semantik und Sinntradition im Mittelalter* [= *Festschrift f. F. Ohly*], ed H. Fromm, W. Harms, and V. Ruberg (Munich, 1975), vol. 2, pp. 299–310, esp. 301–4, 308–9.

[29] See above p. 175.

[30] The *despéré* was a disillusioned hermit in Henri d'Arci's *Vie des Pères*, referred to by J. C. Payen, *Le motif du repentir dans la litérature française* (Paris, 1967), 522 and Knapp, *Selbstmord*, 198. Both authors treat the hermit as a suicide, precisely through misreading (as I see it) the word 'despair' as used in the poem. The text deserves careful examination from this point of view. The relevant lines reveal only that the hermit walked carelessly on a mountain and fell by accident 'sus sa cote blanche marcha / Au marcher quil fist enbruncher / si quil tumba la teste avant', Paris, Bibl. Nat., MS fr. 1546, fol. 34^{vb}, lines [of the page] 23–5. This reassessment of the event cannot but affect the interpretation to be put on the word 'despair' in the rest of the poem. The term is used five times, of which only the last two, both appropriately in the final 'Moral', are free of the general sense of 'desperado'. They are: (1) fol. 34va, lines 25–32: 'Pour lamour du peneancier / A soi comensa a tencier / Et dist come desesperez / Las mendiant las esguarez / Las qui nul bien ne doi avoir / Laz en qui na sens ne savoir / Las qui bien as xxx anz este / En cest reclus en povrete.' (2) and (3) fol. 34^{vb}, lines 11–12, 18–20: 'Ensi fu ti fol desperez / Et desperit fol esperez / . . . Maintenant brisa son reclus / Si sen parti tous esrages / De retourner a ses pechiez.' (4) ibid., lines 41–6: 'Et qui son fol cuer sacorde / Le laz courant quiert & et la corde / Dont il se part come danpnez / Quil ne croit pas que diex soit nez / Ne que iames bien puisse avoir / Come desperez sanz savoir . . .' (4) fol. 35ra, lines 15–22: 'Si come fist cist foux hermites / Qui de ses pechiez estoit quites / Et en desesperance se mist / Pour la largesse que diex fist / A cest home cuidoit li las / Que notre sir neust pas / Tant de largesse ne de grace / Quil eust en paradiz place.'

[31] Jacques de Vitry (as in n. 22), §143, p. 64: 'Majores igitur se reddere debent amabiles minoribus et non odibiles neque contempnere debent minores, quia nocere possunt et juvare; periculosa enim res est desperatio. Multi enim servi lesi aliquando dominos suos occiderunt vel domos eorum incenderunt.'

[32] Andrew of Wyntoun, *The Original Chronicle*, ed. F. J. Amours, 6 vols. Scottish Text Society (Edinburgh, 1903–14), vol. 5, p. 408, lines 2342–3: 'But I have herd ofttymes say / that disapire giffis hardyment.' Background: B. J. Whiting, 'Proverbs and Proverbial Sayings from Scottish Writings before 1600', *Mediaeval Studies*, 11 (1949), 123–205 and 14 (1951), 87–164.

Suicide

One meaning more remains to be considered. 'Despair' could simply mean suicide. That fifteenth-century French poet who spoke just now of 'any [sort of] despair' may darkly have hinted as much, using 'despair' as a euphemism of suicide. But the word 'despair' appeared in other ways too, more or less closely associated with the same act. The case might be just one of saying 'x despaired and killed himself', as if the link was natural. Such phrases survive from early, middle, and late medieval centuries. Thus the Council of Toledo in 693 spoke of the old 'contagion of despair' which drove some men to hang or stab themselves.[33] The eighth-century English Penitential *Discipulus Umbrensis* spoke again of *desperatio* as a motive specifically for suicide.[34] The ninth-century Frankish *Manual* of Dhuoda similarly identifies despair as the sin of which the suicide is guilty,[35] while Hrabanus Maurus's commentary on Saul's death refers, in the same idiom, to those who kill themselves with their own dagger, like Saul, 'in desperation'.[36] In the early eleventh century, the Conques miracle book likewise describes a suicidal knight as falling into 'desperatio'.[37]

The same association would be made in the scholastic age. In the thirteenth century, a northern Italian chronicler, whose Latin notoriously rings with echoes of his contemporary vernacular, can say how a man killed himself 'tempted by I know not what folly or despair [*stultitia vel desperatione*]';[38] while a French contemporary, also with an ear for contemporary usage, will say how a youth was led by the Devil 'nearly to despair or [*vel*] to kill himself'.[39] In northern Italy, again, at about the same date, a Lombard vernacular poem with the Latin title *De agricola desperato* is appropriately, as readers obviously expected it to be, about a peasant who kills himself, and the poet frequently uses the vernacular equivalent within the poem, in the same sense.[40] A contemporary theological handbook for priests, of English origin,

[33] XVI Toledo, canon 4; ed. J. Vives, *Concilios visigóticos* (Barcelona and Madrid, 1963), 501: 'custodia mancipati, incumbente desperationis incommodo, seipsos malunt aut laqueo suspendio enecare, aut ferro vel aliis mortifieris casibus interimere'. Cf. p. 185 above.

[34] 'Theodore's Penitential', *De vexatis a diabolo*, §2; above, p. 253.

[35] Ed. E. Bondurand (Paris, 1887), 209: 'qui, in desperatione positi, dies in peius finiunt suos.'

[36] *Commentaria in libros Regum*, bk 1, ch. 31; *Pat. lat.*, 109, 70C: 'proprio mucrone, desperatione videlicet perniciosa evadendi nostem antiquum, semet ipsos interficiunt, sicut Saul.'

[37] *Miracula s. Fidis* (as in n. 8), App. 2, ch. 3, p. 235. It will be obvious from this and other early and central medieval examples that I dissent from the view of Snyder, 'The Left Hand of God' (see n. 23), 50, that the equation of 'despair' and suicide did not occur until the late Middle Ages.

[38] Salimbene, *Chronica*, an. 1229; ed. G. Scalia (Bari, 1966, 61.3–4: 'de puteo in quem se ipsum precipitaverat, nescio qua stulticia vel desperatione temptatus.'

[39] Étienne de Bourbon, *Anecdotes historiques*; ed. A. Lecoy de la Marche (Paris, 1877), §226, p. 196: 'de hoc ad mortem dolebat, et fere pro hoc ad desperacionem induxisset eum [dyabolus] vel ad sui occisionem, nisi saniori consilio credidisset.'

[40] *Le opere volgari di Bonvesin de la Riva*, ed. G. Contini, vol. 1: *Testi* (Rome, 1941), 234–6.

will speak meanwhile of a kind of *acedia* which consists of 'desperation or weariness with one's own life', as if the 'despair' element there too were implicitly suicidal.[41] The association continues unabated in the fourteenth and fifteenth centuries. One of Petrarch's *Familiar Letters* says 'I do not approve of artificially hastened death or despair [*accersitam mortem desperationemque*],' in one breath, like that.[42] St Bernadino of Siena's vernacular *exempla* on suicide similarly use the word *disperazione* as an open synonym for suicide.[43] And both these authors, if they had visited the Arena chapel in Padua, could have seen in it Giotto's allegory of Despair as a hanged woman. That image of Despair had in fact been a feature of Church art since the early thirteenth century.[44]

Apart from such associations the word 'despair' also appears in what linguists call strong collocations, that is, side-by-side with another word. Much the commonest expression of this kind was the 'abyss of despair', *barathrum desperationis*, an idea occasionally expressed also as 'the pit' of despair (*fovea desperationis*).[45] Other expressions included the 'shipwreck' or 'tempest' of despair.[46] *Barathrum desperationis* may be used in an explicitly suicidal context, as in a thirteenth-century Dominican biography where a youth: 'fell into the *baratrum desperationis*, and . . . so took a knife' and so on.[47] Or

The peasant is humiliated by a son whom he has laboured to have well-educated and who has become a snob and a priest; but his despair—a word which comes four times in the eighteen stanzas, always in the same sense—is aborted by his last-minute release from the noose by the Virgin Mary. Cf. D. Rolfs, 'Dante, Petrarch, Boccaccio and the Problem of Suicide', *Romanic Review*, 67 (1976), 200–25, on p. 201.

[41] London, British Library, MS Add., 11, 579, fol. 125^{v}: 'Peccat homo per acediam . . . In corde per nimium dolorem alicuius dampni terreni, per desperationem et per tedium vitae suae.'

[42] Quoted by Rolfs, 'Dante, Petrarch', 210, from *Litterae familiares*, bk 3, no. 10.

[43] C. Cannarozi, ed., *Le prediche volgari di San Bernardino da Siena* (Pistoia, 1934–58), vol. 1, p. 431: 'Quanti ne vengono in disperazione . . . e tali s'impiccono per la gola . . . uno giocatore tre volte s'impiccò per in gola per disperazione.'

[44] This is to be documented in *The Mapping of Mental Desolation.*

[45] Ratherius of Verona, *Sermo* 2, §23 [*Pat. lat.*, 136, 702B]: 'Suademus illis ne in desperationis se praecipitent ullo modo barathrum' (the passage is ostensibly about religious desperation rather than suicide); Konrad of Eberbach, *Exordium magnum Cisterciense*, ed. B. Griesser (Rome, 1961), 101.22–4: 'sensit in spiritu quosdam . . . in conscientiis suis turbari et fere in baratrum desperationis prolabi'; *Vita b. Egidii de Santarem. Acta sanctorum*, May 3 (1680), 406D: 'gravissimum daemonum pateretur sycophantias, illum ad desperationis barathrum pertrahere molientium'; *Vita et mir. s. Edmundi* in Oxford, Bodleian, MS Fell 2, p. 28b: 'lapsa est in foveam desperationis pre dolore atque tristicia que enim peccata peccatis adiciendo voluit se submergere'. The general association of 'abyss' with despair, in this case of the theologians' kind, is attested by an early twelfth-century English commentary on Psalm 106/7, verse 26, quoted by T. Webber, *Scribes and Scholars at Salisbury Cathedral* (Oxford, 1992), 111: '*Descendunt usque ad abyssos*: id est, ita desperant de salute eorum, ac si essent ita profundissimi in vitiis, quod nunquam resipiscere possent.'

[46] Gregory the Great, *Moralia*, bk 26, ch. 20, §§35 and 36; ed. M. Adriaen, as in n. 3, 1292.6 and 1293.33 [= *Pat. lat.*, 76, 369C–70C]. For other linked expressions: Snyder, 'The Left Hand of God', 48.

[47] Gerard of Frachet, *Vitas fratrum*, pt 3, ch. 27; ed. B. M. Reichert (Rome, 1897), 122: 'in

again the suicidal intention may be implied but not stated, bringing the expression back into the category of euphemisms. Euphemistic uses of the term may indeed be the most numerous, however elusive their exact number must be (since they were meant to confuse); but the term could not have served as a euphemism for suicide at all if it had not, at the same time, been widely used as its literal synonym.

Further meanings

To give up hope in one's doctor; to give up hope in God's mercy; to give up hope, and by implication faith, in God himself: all these meanings could attach to *desperatio* in medieval usage, and with them, the word could also imply the recklessness and moral indifference of the modern *desperado*. The variety of negative symptoms hidden in the word could be further illustrated from the divisions and subdivisions of vices in late medieval handbooks, part of whose harvest is available in Siegfried Wenzel's seminal book *The Sin of Sloth*,[48] a well-documented analysis of medieval concepts of *acedia*. *Acedia*—the original, we saw, and romance-language equivalent, of the English 'Sloth'—was one of Despair's familiar haunts, so that when Despair was not counted among the seven 'anti-virtues' but put among the seven sins *per se*, *acedia* was its normal home. *Desperatio* thus became a 'part' of *acedia*.

To lodge *desperatio* in a scheme of this kind, though a step in the right direction, was far from disposing of its varieties. Nor could it ever do so. The complexity of moral schemes came from their purpose, to rationalize human psychology, and this purpose simultaneously meant that the schemes could never succeed. Hence they were also discreetly mobile, as authors selected and adjusted their inheritance, tacit witnesses to the wide range of impulses, classical, Christian, and empirical (and several of each), that moved them.

So many, then, were the ways of being unhappy. Our business now is with just one of the ways, or what was seen as one; and there is one last question to ask about it. The meanings of the word 'despair' have been shown by the foregoing examples to gather round two poles, corresponding to the kinds of hope, *spes*, to which despair, *desperatio*, was antithesis. One kind of hope is

baratrum desperacionis corruit, nulli audens facinus revelare, unde cum quodam cultello tam valide se percussit, ut ipsum ventrem miserabiliter apeririret'. Another example is in the case of the mother in the *Vita et miracula s. Edmundi* quoted in n. 45.

[48] (Chapel Hill, NC, 1967). Many of my own remarks, general and particular, have been inspired by material in this book, especially that on his pp. 82, 85, 87–8, 95, 99, 101, 121–3, 136–7, and 142–7.

in the goods of this world, like health, love, and money. The other, close ally to faith, is a hope in God and his promises and in particular in his promise of mercy for sin. Our last question, then, must be, how did these two kinds of despair come to be fused?

The Two Despairs

An act of suicide is itself compounded of two elements. One is an emotional mood, an extremity of the gloomy state commonly known by medieval moralists as *tristitia* or *acedia*. But moods are not actions, and suicide is also an action; so its other necessary factor is the urge to give *tristitia* active expression. I shall have more to say about this distinction of emotion and act, as an accessory in explaining anti-suicide ritual in Chapter 13; and there will be plenty to be said of it too in the next volume, in relation to the treatment of suicide in allegory and art. But our concern here is ethics, and the role of the distinction in ethics, though related to its role elsewhere, has a significance of its own.

I suggested earlier that the spread of the practice of sacramental confession encouraged, in moral writings by confessors, a theological bias in the interpretation of *desperatio*. A perfectly familiar vernacular and Latin word, with a range of everyday meanings, was understood by theologians in strictly theological senses. But the spread of confession had a consequence also in the opposite direction. The growing practice of confession was both effect and cause, simultaneously, of a burgeoning moral awareness and an awareness, in particular, that the moral dimension of any act was to be found exclusively in its motive: that to take another man's coat deliberately is quite a different kind of act than to take it by mistake. Motives called for analysis, and this, in turn, led Christian thinkers to draw on the treasury of classical ethics. Classical ethics also used the word *desperare*. But not only did they use it in senses bare of Christian connotation, they used it, in particular, in relation to that act on whose moral value Stoics and Christians were in sharpest disagreement. For a pre-Christian Roman, *desperare* could only mean losing hope in those goods of which a this-worldly ethic took account, like health, wealth, and fame. It could *not* mean a failure to go to confession. Still less could it mean to despair of God's mercy.

Unsurprisingly, then, the word *desperare* had acquired already in classical Latin the secondary meaning of 'to commit suicide'. Here it is in Lucan's *Civil War*, a book written around ad 60, long before Christian influence had seeped into Roman culture. At one point in Lucan's narrative a military commander, fearing he and his men will be forced to surrender on shameful terms,

recommends they kill each other 'lest they be thought to have despaired'. The meaning 'to have committed suicide' is not open to doubt. The phrase runs:

Ne nos, cum calido fodiemus viscera ferro / Desperasse putent.[49]

'Lest, as we thrust the hot blade into our own entrails, people should think we have despaired.'

Lucan could not have used the word with this meaning unless he knew it would be recognized at once by his readers, nor did medieval readers with a classical education have any difficulty in understanding it. On the contrary, the examples rehearsed a moment ago suggest that this classical usage flowed undisturbed into medieval vocabulary, like a river flowing evenly between two countries.[50]

The growing medieval emphasis on motive, and the premium this emphasis gave to classical usage, affected the medieval nomenclature of suicide, their effect enhanced by two factors. One was common speech, with its use of both 'hope' and 'despair' in worldly senses, similar and receptive to the senses employed in pre-Christian Latin. The other was the now familiar tendency of suicide, as an act, to father euphemism. It was more acceptable, whatever one's aspiration to play the psychologist, to name a deadly act by reference to its motive. The same forces, therefore, which led theologians to emphasize the more specifically Christian meanings of *desperatio* led them also, when deployed in other ways, to promulgate the use of the word in a non-Christian sense.

Their fusion

In the very centuries when scholastics were distinguishing virtues and sins more fastidiously, writers who used the word 'despair' frequently did so unaware of its dichotomy in sense. If the sin of the self-hanged Judas had been to 'despair of God's mercy', as anyone could read in St Augustine's *City of God*,[51] it was unlikely that many of the occasional theologians of the late

[49] *Pharsalia*, bk 4, lines 511–12. The passage is noted by Hirzel, pt 3, 464, and Knapp, *Selbstmord*, 19. The term and this passage are puzzlingly absent from the otherwise thorough glossary in Grisé, *Le suicide*, 291–7, and from Van Hooff, *From Autothanasia to Suicide*, 246–50.

[50] Both the Carolingian and twelfth-century renaissances were familiar with the *Pharsalia*. For one scholar's intimacy with it, see C. C. J. Webb's long index entry to his edition of John of Salisbury, *Policraticus* (Oxford, 1909), vol. 2, p. 493. In the passage on Saul's suicide in *Policraticus*, bk 2, ch. 27, on p. 157 at line 35 (see p. 207 above) John alludes to the selfsame 'suicide' speech by Vulteius as that quoted above.

[51] Bk 1, ch. 17; *Corp. Christ., Ser. lat.*, 47 (Turnhout, 1955), 18, 12–14: 'Quoniam Dei misericordiam desperando exitiabiliter paenitens nullum sibi salubris paenitentiae locum reliquit.'

Middle Ages would pause to ask whether motives for suicide should be more finely distinguished. The dossier of possible examples is too big to reproduce, but a few from scattered dates and places will give an idea how widespread the usage was. Thus it comes naturally to a Dante commentator, approaching the suicide canto (*Inferno* 13), to applaud Dante's equation of suicides with wild animals 'because these sinners are like wild beasts and worse, for beasts at least pardon themselves, but these do not,' as if that simple formula, a lack of self-pardon, summed up the motive of all suicides.[52] Near the end of the same century, Chaucer's Parson would speak in the same way in English vernacular:

> Now cometh wanhope, that is despeir of the mercy of God, that comth somtyme of to muche outrageous sorwe, and somtyme of to muche drede, ymaginynge that he hath doon so muche synne that it wol nat availlen hym, though he wolde repenten hym and forsake synne . . . This horrible synne is so perilous that he that is despeired, ther nys no felonye ne no synne that he douteth for to do; as showed wel by Judas.[53]

This usage was normal in Middle English. Around 1440 another moralist wrote even more directly that Wanhope:

> makyth a man nogt to trusten in goddes mercy; for hym thynketh his synne is so myche, þat he may nevere have forgevenesse, and so, peraventure, he may sle hymself thrug þ feendys combryng [ambush].[54]

Again, it is Cain's type of despair that is made to serve as the motive for suicide.

The attribution of suicide to theological *desperatio* was far from an English monopoly. A telling example is to be found in a French poetic allegory, *Le chemin de vaillance*, written in the 1420s by a Picard nobleman, Jean de Coucy, one of those second-class writers whom literary critics shun but are the historian's best friend, since they lack those qualities which made have raised them above the intellectual shortcomings of their generation, to which shortcomings they are consequently good witnesses. *Le chemin de vaillance* has a long passage on 'desperance', nesting in a section on *accidie*. It illustrates *desperance* by classical examples, prominent among them that of Thaïs, queen of Carthage, Jean de Coucy's treatment of whom leads him into a hopeless confusion of the two despairs. If I venture to quote it at some length it is because this particular poet's confusion, and literary status, give

[52] *Commento di Francesco da Buti sopra la Divina Comedia*, ed. C. Giannini, vol. 1 (Pisa, 1858), 351.

[53] *The Parson's Tale*, lines 692–5; F. N. Robinson, ed., *The Works of Geoffrey Chaucer*, 2nd edn (Oxford, 1957), 250. Cf. A. Sachs, 'Religious Despair in Mediaeval Literature and Art', *Mediaeval Studies*, 26 (1964), 231–56, esp. p. 244. The last phrase echoes Seneca Rhetor, *Declamationes*, bk 8, §4; cf. p. 488 below (at n. 8).

[54] *Jacob's Well*, ch. 17; ed. A. Brandeis. Early Engl. Text Soc., 115 (London, 1900), p. 112.

his lines an unusual value as evidence. As far as possible the following translation reproduces the author's terminology and jingle.

Having dilated on the dangers of *desperance*, in a context laid out on a theological scheme of virtues and vices, Jean de Coucy comes to the suicide of Thaïs, whom he cites as a dreadful example:

> Like royal Thaïs who proudly strode
> Along damnation's easy road
> Because she did not care a cent
> And thereby became impotent
> To pray to God when trouble came
> To free her from her plight and shame.[55]

Son grief pechier et meschance. Thaïs's sin and her misfortune are put on an identical footing. The couplets continue:

> He surely would have heard her case
> And pardoned her, and poured His grace
> Into her heart, to help her cope
> If only she had prayed with hope.[56]

Blithely unaware of his confusion of a Christian and a pagan ethical system, the poet goes on:

> And so, my friends, you see how fine
> A thing hope is, and how decline
> Sets in the moment we despair
> Into that dark and hopeless lair
> The man who lets himself be lured
> Will come to death and not be cured
> But lose his body *and* his soul.[57]

Corpus et animam. The theological echo is unmistakable, yet the poet turns straight back to the pagan queen of Carthage:

> For taking to himself the role
> Of that crazed Carthaginian queen
> Who filled herself so full of spleen
> That when victorious Scipio came
> And took her city and her fame
> Refused to hope that Scipio
> Might pardon her.

[55] London, British Library, MS Royal 14E ii, fol. 162^{vb}: 'Quelle not povoir ne puissance / Vers Dieu adfin de luy prier / Que il la voulzist deslier / De son grief pechier et meschance.'

[56] Ibid: 'Sy fist tant quelle ot esperance / Et pria Dieu qui luy donna / Sa grace et la pardonna.'

[57] Ibid. fol. 163ra: 'Car fol est celuy quy resamble / Une royne de Cartage / Quy quant Scipio lot conquise / Et vit que sa cite fut prise / Point not despoir en sa mercy.'

So it is *Scipio*'s pardon, not God's now, that we are talking about! The suicide follows as if there had been no change in systems of reference:

> but, mad with woe,
> Instead, and hopelessly forlorn
> Took the two children she had borne
> And, mother as she was, straightway
> She lit a fire without delay
> And with her young upon its flame
> She perished, and her sons the same;
> All this because she did not choose
> To hope in Scipio; rather to lose
> Her body and her soul for ever.[58]

As if a pagan queen's soul was not lost anyway. Thaïs's fate, though thus manhandled, nevertheless serves as a warning for Christians.

> To teach you all that you may never
> Follow that path, but take good heart
> And fight despair off from the start
> And free yourself by her grim fate
> And shed despair, ere it's too late.[59]

If men of letters could write in this way it is no surprise that the occasional theology of the general public could be more casual still. Again, examples could be multiplied, not least from dictionaries of the various vernaculars. One very typical example, from the suicide dossier in the previous volume, is the expression used by a clerk in Basle after the suicide of Cardinal Zamonetič in 1485: 'he doubted in the mercy of God and killed himself'—no more.[60]

What may be rather more surprising is that the same equation is also often found among *non*-casual theologians, from Augustine's time into high scholasticism. Gregory the Great had certainly played his part in feeding it, since, when wrestling allegorically with the quasi-suicidal thoughts of the patient Job, Gregory had written: 'Far be it from the saintly man to despair of the generosity of God's mercy . . . and rush to impale himself on the sword of

[58] Ibid: 'Aincois ot tout le cuer nercy / Defaillie desesperance / Que ses deux filz sans demourance / Et elle ne voult plus garder / Ains se fist en ung feu arder / Avecques ses enfans nez delle / Sans plus pour la cause que selle / Eust eu en Scripione espoir / Gardee leust de desespoir / Par quoy es perdit corps et ame / En mourant a vilain diffame.'

[59] Ibid: 'Par sa male desesperance / Sy preng en toy cuer et puissance / A desespoir contraller / Et toy de ce fait deslier.'

[60] *Urkundenbuch der Stadt Basel*, vol. 9, ed. R. Thommen (Basle, 1905), p. 10, no. 16 (12 June 1485): 'als er an der barmherzikeit gottes verzwyffelt im selbs in der gefengknúsze den tod angetan hatt.' Cf. *The Violent against Themselves*, 79, n. 13.

despair, the robber.'[61] Scholastic theologians, when their time came, could nevertheless use the same equation without any allegory at all. Here is St Bonaventura (†1274):

> There is another sort of despair. By it, a man who radically despairs, hides himself as it were from the face of divine mercy, as Cain did . . . This is the sin against the Holy Ghost. . . . and sin of this kind always has malice conjoined, because he who despairs thus, about some sin or other, wishes to end his life; whence it is that such *desperatissimi* very frequently kill themselves.[62]

The trait is frequent enough for modern authors to have absorbed the same assumption.[63]

This equation of the two despairs could, of course, reflect subtle psychology. The suicide may at bottom believe God will not pardon him, supposing he believes in God at all. But that hardly seems appropriate to the unlucky gambler or lover, or the peasant pillaged by mercenaries. Nor does it take account of the possibility, touched on a moment ago, that the man who despairs of God's mercy might be the very man most tenacious of life, for fear of meeting his judge. At all events, as the scholastic threshing machine did its work more thoroughly, we see a distinction creeping in, haltingly at first but with increasing confidence. Let me end this chapter by quoting a few examples of its entry, from a miscellany of texts from the last two and a half medieval centuries.

The series begins with a writer who saw the distinction but withdrew from it again. He may have been Alexander of Hales, to whom that big Franciscan *Summa Alexandri* (*c.*1240) was attributed, and was at all events a friar working with him. The *Summa* has a section, or 'Quaestio', devoted entirely to the sin of despair ('De desperatione'), whose eight chapters appear to discover the distinction gradually. The author starts by quoting Augustine's definition of despair in the theological sense, as 'doubt about God's mercy [*diffidentia de Dei misericordia*]' with Cain as an example, and continues on the understanding that sin, and God's forgiveness of it, is the real subject of despair. In other words, suicide is at first nothing to do with it. But it slowly enters the debate. Despite the title of the *quaestio*, suicide when it comes is not at first

[61] *Moralia*, bk 18, ch. 25; ed. Adraien, vol. 1, 417.32–6: 'Absit enim, ne vir sanctus de divinae misericordiae largitate desperet, ne gressum cordis a profectu intimi itineris subtrahat, ne amorem conditoris deserens, quasi a duce destitutus in via remaneat et confossus gladio latrocinantis desperationis ruat.' The comment is on Job 17: 15.

[62] *In II Sent. dist.* 43a, 3 quaest. 2 ad 1; *Opera omnia* (Quaracchi, 1882–1902), vol. 2, 995a; quoted by Jehl (see n. 15 above), 252, n. 747. Although the *Speculum morale* (see p. 341, n. 63) distinguishes, as in itself morally neutral, the 'despair' of the man who does not hope to escape punishment, reach high office, or become rich (fo. 224ra), it still numbers suicide among effects of a strictly theological *desperatio* (fo. 224vb).

[63] e.g. Sachs (see in n. 53), 239–40; M. Goodich, *Violence and Miracle* (Chicago and London, 1995), 791.

associated with the word 'despair' but, more traditionally, with *tristitia seculi*, phrased as 'immoderate unhappiness in sin', and this leads to what the author, quoting Chrysostom's Matthew commentary, calls *diabolica methodia*, a euphemism for suicide (since Judas exemplifies it). Step by step, from that point, the *quaestio* gets more interested in suicide. Near the end, in chapter 6, as if taken by surprise by the possible confusion, the author decides to divide despair into 'parts', allowing that despair does divide into temporal and spiritual kinds; so that 'someone may despair about God's mercy in respect of temporal goods, as poor people may do who live in wretched tribulation; others despair of God's mercy as to spiritual goods.'[64] After that sortie into the mental world of his contemporaries, however, the friar swiftly reintegrates the two parts of despair, insisting that even *worldly* despair is a *way* of doubting God's mercy. So it all comes down to the same thing. 'He, therefore, who despairs about mercy in general, must necessarily despair about each single kind of mercy.'[65] So, we are to understand, the unlucky gambler or lover who kills himself is still doubting God's mercy, that mercy nevertheless being understood, for this purpose, as God's providential disposition of events in *this* world, rather than his welcome to penitents in the next. In other words, after briefly recognizing the separate identity of this-worldly despair, the Franciscan author has rushed back to his conceptual theological homeland.

Their distinction

The confusion from which most occasional theology, and some less occasional, suffered on this point is exposed by the clarity of thinkers free from it. Among a small miscellany of examples, one to express the distinction clearly was Denys of Rijkel, alias Denys the Carthusian, writing *c.*1430 in a book on 'The Passions of the Soul'. Coming to the 'passion' of Hope, hence to its opposite, Despair, Denys hurries to distinguish the two, *qua* 'passions', from their theological homonyms:

> It is important to realize that Hope and Despair, in so far as they are passions of the soul, differ from the Hope which is a theological virtue and the Despair opposite to it. For the object of the Hope and Despair in the passions is a sensible, created good. The object of Hope as a virtue, on the other hand, and of the Despair contrary to it, is a divine, intelligible good, namely God.[66]

The distinction could not be made more clearly.

[64] *Summa theologica*, Inq. 3, tract. 5, sect. 2, quaestio 3, cap. 6, art. 33; Quarrachi edition, vol. 3 (1930), p. 683a.

[65] Ibid., p. 684a: 'Qui ergo desperat de misericordia generali, per consequens desperat de multiplicatione misericordiae.'

[66] Dionysius Carthusianus, *De passionibus animae*, art. 42; in *Opera omnia*, 42 vols

Denys was a Carthusian, living in seclusion. How far the distinction he acknowledged penetrated the public mind is hard to measure. The usage of 'despair' as a synonym for suicide, and narrators' allusions to a suicide's 'despair of God's mercy', showed that the confusion remained widespread. Some moralists nevertheless trod more carefully, either by perpetuating an older, safer tradition which attached suicide to *tristitia seculi*, or by conceiving their own nomenclature. Thus—to take another of the small miscellany—a fourteenth-century Austrian sermon about the graver spiritual sins mentions suicide as a known outcome of such sins, and still attaches suicide to what in Latin would have been *tristitia*, not despair:

> One sort of *tristitia* [*Traurigkeit*] is the kind that makes a man unhappy about ephemeral things, like some who so long for riches that they are never happy, and others so heartstruck for women that they cannot eat or drink; and I have often heard that a person in this condition has hanged or stabbed himself. This is called worldly *tristitia*.[67]

It is as if the preacher looked at the reality first and then found a name for it, a healthy empiricism guarding him from learned semantic traps. The preacher was then free to use the word 'despair' (as 'zweyfel') elsewhere for its strictly theological function.[68] Again, the Dominican John Herolt (†1468), whose *Sermon-Prompter* became a favourite for pastors in the late fifteenth century, includes, under the heading of 'despair', suicide *exempla* taken from Caesarius of Heisterbach, but he separates these from the chapters which describe theological Despair, thus avoiding overt confusion.

Confusion was therefore not universal, but it was still widespread. This has already been shown by linguistic examples, and is confirmed by a moralist, Alain Chartier, author of the most ambitious *ex professo* study of Despair to appear in the whole Middle Ages. Alain was a well-known French poet, and his long allegorical dialogue, usually called *The Book of Hope*, was written

(Montreuil-sur-Mer and Tournai, 1896–1913), vol. 40, p. 371C: 'Agnoscendum quoque, quod spes et desperatio in quantum sunt animae passiones, differunt a spe quae est virtus theologica, et desperatione ei opposita. Objectum namque passionum spei ac desperationis, est bonum sensibile creatum; objectum vero spei virtutis, et desperationis ei contrariae, est bonum intelligibile divinum, viz. Deus sub ratione ultimi finis et summae beatitudinis.'

[67] Klosterneuburg, MS 902, fol. 37^{r-v}: [of four sorrows, signified by the four waters of Babylon] 'Das andere traueren ist der sunt di umb zergaenchleiche dinge traurent, als maniglich der sich senet hach guet so vasst das er chain vrewd gehaben mag. So ist auch maniger der sich nach weiben so vasst senet, das er weder geessen noch getrunken mag. Auch hab wir das offt vernommen, das sich ainer var laid erhangen hat oder erstochen, das haisst der welt traurigkeit.'

[68] Ibid., fol. 156^{v}: [of links in the Devil's chain] 'Der fünft rinch ist der zweyfel, das der sünter vertzweyfelt an got, do von spricht kayn, main pazhait ist groezzer denn ich antlaz mug gedienn.' This sentence recommends a concession to the theory of Snyder, 'The Left Hand of God'. See above, nn. 23 and 36.

around 1430 (and hence is contemporary with Denys of Rijkel). The whole book is about Hope and Despair, with references to contemporary France, and to biblical and classical examples. The work was aimed at an educated French public devastated by war and poverty, so correct definition was important, and two-thirds of the way through the debate the allegorical *Espérance* interrupts matters to identify a widespread confusion:

> I wish to undo a misunderstanding which enwraps many people. They pretend to the virtue of Hope without practising it, usurping the name but avoiding its reality, because they set their hearts on vain expectations and on empty hopes of the wrong sort.[69]

The denunciation of false hope goes on for thirty pages of the printed edition, and includes the observation that the knocks which crush people's spirits come from the false, worldly nature of their hopes. The idea that there is a *worldly* despair, distinct from the theological (of which Alain speaks elsewhere) is thus implied if not stated. 'The right kind of Hope should be so sure that the waverer does not despair.'[70] 'Do not make your Hope a servant of *choses desesperees*.'[71] Alain wrote as a well-read and observant Christian rather than as a full-time theologian, so his distinctions are couched differently from Denys's. His aim was to cheer readers up, and it is the two hopes, not the two despairs, he was concerned to distinguish. But the 'plusieurs . . . envelopez' in the confusion he castigates would have needed the same lesson about the two despairs.

Conclusion

Alain Chartier argues his distinction as if it were not yet axiomatic among his readers, and why should it have been? A universal linguistic usage confused religious and worldly despair. The pagan concept had fastened the word firmly to suicide, at first without moral condemnation. It was the Christian concept that added the condemnation and simultaneously, whether rightly or wrongly, assigned suicide to a specific failure in religious belief. Whether that specific failure was painted in blacker colours by its association with suicide is difficult to decide. Failures in Christian belief may have seemed black enough already in a culture whose sensitivity to 'heresy' was all the stronger

[69] *Le livre de l'Espérance*, Prose XII, lines 1–5; ed. F. Rouy (Paris, 1989), p. 101: 'Ung doubte te vueil je desnouer, ou plusieurs sont envelopez, qui veullent esperer sans esperance et usurpent pour neant mon nom sans mez oeuvrez. Ceulx mettent en leurs cueurs attentes vaines et esperances faintes et adulterines, en retenant mon umbre, et laissent ma lumiere.' Proses XII and XIII [pp. 101–32] are mostly devoted to distinguishing true from ephemeral hope.

[70] Prose XII, 57 [p. 103]: 'Mais la bone experance doibt estre si certaine que le doubteux ne soit desesperé.'

[71] Prose XIII, 487–8 [p. 131]: 'ne fay pas ton esperance serve a choses desesperees.'

for demonstrable impurities in its own faith. The fact remained, and was simply demonstrated in the first volume of this trilogy, that people did not, in general, commit suicide for expressly religious reasons. A monk here, or a nun there, may be found as a possible exception, but they were the spiritual gladiators, and most suicides had no identifiably religious motive. They just found life unbearable, often for an obvious and fairly material reason like loss of freedom, respect, money, or a mate. Whatever part religion may have played in their lives before disaster struck—a matter notoriously hard to estimate—its roots were too slight to lend their reaction what could fairly be called a palpably religious dimension. They despaired in the pagan sense, as used by Lucan, and in the pagan sense there was no wrong in that. In the Christian sense, there would have been a lot wrong. So the meanings were silently fused, fortifying the curse on suicide.

The contribution of 'Judas Desperatus', that compound imaginary figure with a rope round his neck, was to cement this fusion. The rules of iconography demanded a graphic image for Despair, and suicide and its instruments were irresistible. Thus was completed, not a twofold but a threefold confusion of ideas; that Judas committed suicide; that his motive was a disbelief in God's mercy; and that this disbelief, for others as well as for Judas, constituted the unforgivable sin that directly led to suicide. All three propositions are open to doubt. That they were not doubted was because, bound as a three-stranded cord, their convolution formed an idea powerful enough, in a culture ostensibly Christian, to endorse and articulate a religious horror of suicide. The horror justified, and hence virtually guaranteed, that no one would examine any of the constituent questions further.

Were human reactions to suicide, then, determined by ideas? Or was the truth the other way round, and the ideas shaped by the reactions? The 'occasional theology' of suicide, as examined in this trio of chapters, has led one step nearer an answer, since that particular kind of 'theology' has been shown to lack the consistency that alone can give ideas a force of their own. They compensated for their inconsistency by consensus. Everyone agreed, so questions were not raised. But consensus, in the end, is no lasting compensation. If there are fissures in a notion it favours, then consensus ultimately lacks the means to heal them. Indeed it can tend to widen the fissures, by exposing apparently rational doctrines to influences originating far outside the visible boundaries of reason. Like our cities on the slowly drifting continents, the consensus itself is in these circumstances moved *en bloc*, without its being aware, by external forces, larger and less open to rational analysis than the ideas the world repeats, in the belief that *they* are what moves it to behave as it does, and that the ideas cannot be other than coherent since the voices that express them sing in chorus.

Today's students of history, by definition, are not part of any past consensus. Reflecting on this one and aware, as contemporaries were not, of its intellectual fissures, we are at last equipped to start identifying the forces which acted on it from outside. The foregoing eight chapters have posed the question. The curse on suicide was established as the medieval curse of curses, pervading both the written and customary law and casting horror on a suicide's body, property, and memory. A survey was made of old ideas readable from the medieval book-chest, and of others developed from them by medieval theologians and lawyers. The outcome is a gap. Though theological in apparent idiom, many medieval ideas on suicide lacked the coherence of real theology, and indeed any coherence sufficient to account for the curse in all its vigour. The rationale for the curse must therefore be sought, not just in these explicit testimonies but in their context. So we say goodbye to the philosophy of law. Even for the Antonines, law could not be *all* philosophy, nor can it be in any age. Laws have their anthropology too. Its task is to chart the *less* rational impulses behind human ideas of the fair and unfair, impulses which may in one respect be weaker because irrational (and subject to more or less felicitous attempts at erosion by reformers), but draw extra strength from another quarter: the momentum of tradition, perhaps of immeasurable antiquity, passed down by speech and act rather than by writing, and only by writing incidentally and just enough, if so much, to leave historians a clue.

The medieval anthropology of suicide law, and the possibility of an ancient tradition behind it, will be subjects for the remaining five chapters of this volume, three chapters for the former, two for the latter, the two groups complementary. We start, with the first member of the first group, in the purlieus of anthropology.

12

Intention without Act

On 1 february 1757 a French citizen named Robert-François Damiens was publicly tortured, and then killed by being torn apart by horses, for having allegedly tried to kill Louis XV. The king was in fact scarcely harmed, but the judges punished the attempt as fully as if this most heinous of secular crimes had been completed, with the utmost tortures and humiliations their ingenuity could devise.[1] Most of the considerations that moved the judges would now be seen as barbarous. But one was the sound moral intuition, as true now as then, that if a man conceives, plans, and attempts a wrongful act, with every intention of completing it, the question whether accidents beyond his control or calculation prevent him has no bearing on his guilt. This equation of intention and act enjoys, among many other endorsements, that of the Gospel (Matthew 5: 28), where Jesus says the guilt of adultery attaches to the mere thought of it, short of any attempt. Although lawyers, over the centuries, have recognized—or learned to their cost—that mere thoughts cannot be their home territory, for moralists the paramountcy of intention has always been axiomatic. One sign that the twelfth-century renaissance had begun was Peter Abelard's declaration, to a slightly surprised readership, that 'there is no sin except against conscience.'[2]

While the equation of attempt with act is a basic principle of moral theory, in legal practice the equation has held true occasionally. It did so as in the case of Damiens. More generally, however, the principle has been alloyed by principles foreign to it. Even in modern European countries attempted murder remains a different offence from murder, and courts, if left to themselves with no statutes to guide them, habitually give out sentences half, or less, as severe

[1] J. McManners, *Death and the Enlightenment* (Oxford, 1982), 383–4. Quotations from the diary of an onlooker: M. Foucault, *Discipline and Punish: The Birth of the Prison*, trans. A. Sheridan (London, 1977), 3–6.

[2] *Ethics*, ed. D. E. Luscombe (Oxford, 1971) 54–5. The finer nuances of this doctrine, and its possible qualifications in practice, find articulation typically by the novelist George Eliot in 'Mr Gilfil's Love-Story' (where Maynard protests at Tina's application of Mt 5: 28 to a wrongful proposition of her own); *Scenes from Clerical Life* [1858] (London, 1906), 235.

for an attempt as for a successful crime.[3] The distinction itself betrays the headaches lawyers have always had from attempt. Since the time of Exodus (cf. Exodus 21: 18–19), the guilt attaching to a wound given in private fighting has depended on whether the victim dies or not, even though that outcome may be due entirely to luck or the skill of a doctor. Because of the advances of modern medicine, many criminal acts which would once have been murder have become a lesser offence, without the criminal's guilt or innocence having anything to do with it.

In terms of pure justice the distinction is an anomaly, a built-in injustice. It nevertheless has two recommendations, which act together to ensure the distinction remains. One is the purely mechanical difficulty a court has in proving intentions, since a finished act has a quality as proof, never quite shared by attempt, and never shared at all by mere thought (which is why Roman law expressly did not punish *nuda cogitatio*, what it called 'bare thought', on the grounds that 'it does not lie in our power').[4] The second reason arises from the inertia native to all legal institutions. Someone has to exert himself to make them work, and what has overcome the inertia, down the ages, has nearly always been damage suffered by a victim. A complete act is not only the best proof, but it is also the impulse that gets the law moving: not just a sign, but an efficacious one. It was the damage the public suffered or apprehended, rather than any question of the intentions behind the damage, that generated law in the first place. A threat or injury to someone or something had to start proceedings, which, later, might or might not weigh up the perpetrator's intentions. Convention has obeyed the same inertia, and hence in most legal systems sanctioned the distinction between attempt and full crime. Hence the anomaly, accepted so widely that it is not recognized as such, that differentiates murder from attempted murder, and allows a victim's stout constitution, or a skilful doctor, to save his attacker from the gallows without any further reference to the moral nature of the murderous act.[5]

[3] Glanville Williams, ed., *Textbook of Criminal Law*, 2nd edn (London, 1983), 404.

[4] Quoted and discussed by W. Engelmann, *Die Schuldlehre der Postglossatoren und ihre Fortentwicklung* (Leipzig, 1895; reprint, 2nd edn, Aalen, 1965), 23; and in a slightly different form by S. Kuttner, *Kanonistische Schuldlehre von Gratian bis auf die Dekretalen Gregors IX*, Studi e Testi, 64 (Vatican, 1935), 39–62, esp. 52.

[5] The clearest available general treatment of this, as of other aspects of the history of criminal attempt, is that of J. Hall, *General Principles of Criminal Law*, 2nd edn (Indianapolis and New York, 1960), 558–75. Hall acknowledges that attempt 'is more intricate and difficult of comprehension than any other branch of the criminal law', and that there is 'an irreducible element of experience in law that cannot be persuasively dissolved in logical analysis' [p. 558]. A large specialist literature on the problem by modern lawyers is accessible, through H. L. A. Hart, 'The House of Lords on attempting the impossible', in that author's collected *Essays in Jurisprudence and Philosophy* (Oxford, 1983), 367–91, as well as in legal historical journals. For the medieval phase of the history, and apart from legal authorities cited in earlier chapters, my own principal guides have been Engelmann, *Schuldlehre* (as in the last note) and the

To reflect on this distinction for any length of time is to see that it is the reverse side of another anomaly. I refer to the condemnation of the agent of damage without any consideration of his guilt. An example is the punishment of someone who kills by accident as if he were a murderer. The classical case is that of King Oedipus. Oedipus killed his father and married his mother, and for that double offence was blinded and ostracized. In Sophocles' play, *Oedipus Tyrannus*, that punishment is presented as somehow just, contrary to our modern intuitions on the matter. After all, we think, Oedipus had taken his father for a stranger who was threatening his life. Oedipus had killed the stranger in good faith in an act of self-defence, and had then married his mother with the same innocent intention, since he did not know Jocasta was his mother. Anyone might have done the same. None of that made any difference in Sophocles' early drama. *We* know Jocasta was his mother; and that therefore, whether he is innocent or not, it is somehow inappropriate that Oedipus should share ordinary, decent, human company. In a second play on the same subject, apparently written much later and near the end of his life, Sophocles revised his approach. The hero of *Oedipus at Colonus*, still ostracized, protests his innocence, and points out that what had happened to him could happen to anyone, however pure in intention. In *Oedipus at Colonus* it is all of a sudden the punishment, not the offence, that seems unjust.[6] A similar distinction would be made by Jesus (in Matthew 15: 17–21) when he says a man cannot be defiled by external things but only by what comes 'from the heart . . . evil thoughts, murders, adulteries'; and we found another version of the same distinction in St Augustine's *City of God*, when he argued—clearly against opposition—for the moral innocence of rape victims.[7] The very disparity of the dates of these examples, each one four centuries from the one before it, is enough to show that the conceptual disengagement of guilt from pollution has not been a single historical event, but a slow process, calling for a fresh impulse in each generation. It is still going on.

The acquittal, or partial acquittal, of a man of bad intent whose plans do not succeed, and the punishment of a man with no ill-will who involuntarily damages someone else, are two aspects of a single legal phenomenon. It is that the law at first perceives a man's moral worth in terms of events with which he is associated. At that stage motive does not matter. Circumstances themselves hardly matter. Indeed, even the man's authorship of the act—the

appropriate sections of the Roman Law commentaries by Cino of Pistoia (†1336) and Baldo de' Ubaldi (†1400), namely Cinus, *In Codicem commentaria*, section *in Cod.* 1, 3, *De episcopis et clericis*, *lex* 5 ('Si quis non dicam') (edn of Frankfurt, 1578, fols 13^{ra}–14^{ra}); and Baldus, *Commentaria*, on the same law (edn of Venice, 1615, vol. 3, fols 36^{a}–37^{ra}).

[6] G. Murray, preface to his translation of *Oedipus at Colonus* (London, 1948), 5, 8–11, referring especially to lines 266–83, 539–48, 960–1000 of the play.

[7] Bk 1, ch. 18; cf. p. 113 above.

question whether it is *he* that has done it—need not matter so long as the man and the event are bonded together in people's thought. That is why, in the case of Damiens in 1757, not only was Damiens tortured but his *parents* were exiled and his siblings made to change their names. It is also why some systems of detection which to us appear faulty once endured for centuries in past societies. A well-known example of that is the medieval ordeal, by which a man had to hold a hot iron to prove his innocence. From one angle, the imperfections of the ordeal were immaterial. So long as *someone* was hanged, and that particular person was firmly associated in the public mind with the misdeed in question with or without any serious investigation into the matter, the act served one of law's central functions and survived for that reason. It showed what people collectively thought of the misdeed. *That*, the punishment seemed to say, is what 'a man like that' deserves. It reasserted a norm, never mind what some hapless individual had to suffer for it.[8]

In the study of medieval suicide, these considerations have a particular role to play. They set in context, and hence render easily visible, two features in the punishment of suicide which might on their own go unnoticed. One relates to reactions to attempted suicide; the other, to a feature in the punishment of the completed act. This chapter and the next will successively examine these features. The two chapters are therefore complementary, the pair of them underlining, yet again, each in its own way, the status of suicide as an odd man out.

I turn first, then, in this chapter, to ask how medieval customary and written law reacted, not now to completed suicide but to mere attempts at it. The enquiry will focus on three questions, enclosed within each other like Chinese boxes. First, how far did reactions to attempted suicide differ from those to the complete act? Second, was this difference greater or lesser than the equivalent difference in respect of other crimes? Third, did the answer to these questions differ from one juridical milieu to another—for instance, as between ecclesiastical and secular courts? These questions cannot all be answered systematically, source by source. But I shall keep the three of them written up on the blackboard, as it were, throughout the review of evidence.

In respect of attempt, the odd-man-out status of suicide arose from two peculiarities that marked suicide off from other crimes. One was the unique degree of moral heinousness attached to the completed act; the other, that the

[8] On this aspect of the ordeal: P. Brown, 'Society and the supernatural: a medieval change', *Daedalus: Proceedings of the American Academy of Arts and Sciences*, 104, no. 2 (1975), 133–51, reprinted in that author's collected essays *Society and the Holy in Late Antiquity* (London, 1982), 302–32 (another reason for the change being suggested in my 'Money and robbers, 900–1100', *Journal of Medieval History*, 4 (1971), 55–94, on p. 90).

failure of an attempt at suicide eliminated, at a stroke, most of the legal anomalies innate in suicide as such. Most notably, in a mere attempt, the culprit was alive to answer questions and be punished if need be. Since it was the absence of these capacities in the dead suicide that made its main idiosyncrasy, the failure of an attempt at suicide suddenly, in one important respect, rendered the act normal.

We must start therefore by investigating what, if anything, medieval people did to those who had tried to kill themselves but failed. Again, following a role applied repeatedly in this enquiry, I shall cast a wide net across the sources. These will include legal enactments, canonical and secular; commentaries on these; judicial decisions, again from both ecclesiastical and secular courts; and finally, narratives of every kind. Particular reactions to attempted suicide will to some extent be found native to particular categories of source, for instance, those from ecclesiastical as distinct from secular courts. Although some of our findings will be general to all categories, and criss-cross the boundary lines on the example of the Scarlet Pimpernel, my exposition will respect this broad division; and that means looking first at canon law.

Attempted Suicide in Ecclesiastical Law: Theory

Already the earliest surviving canonical enactment on attempted suicide indicates that, for some time before, nothing at all had been done to punish attempts. Among the suicide canons of early Germanic councils I quoted at the end of Chapter 5 was a canon on attempts, namely the fourth canon of the sixteenth Council of Toledo in 693. The text was set out fully on page 185. I venture only to recall its main features. The law it enacts had been devised by *ad hoc* deliberation to meet a recent and particular emergency, as distinct from being the revival of an old law that had suffered neglect. A 'contagion of despair' had been causing suicides of defendants in custody or under sentence. The Toledo law was aimed at the living, those who 'escape death', and it imposes on them, if they have attempted suicide, two months' excommunication, implying ostracism and a denial of sacraments. Its declared aim is to restore culprits 'to hope and salvation'. The canon is *inter alia* a tacit acknowledgement that the severe supernatural penalties envisaged by Braga and Auxerre have not been effective, or not effective enough. XVI Toledo 4 remains the only canon from the early Germanic councils specifically on attempted suicide. It was preserved and copied with the other canons from Toledo, and from other Iberian councils, but in their surviving proceedings it was not repeated or developed. This fact alone tends to confirm the idea,

implicit in the text, that it represented a rare departure for church legislators, evoked by a particular crisis.

This conclusion receives further confirmation from a similar silence in the penitential books of the eighth, ninth, and tenth centuries. The silence of the Celtic penitential books is more significant than that of the others. The Celtic books, it will be recalled, were precociously sensitive to intention in general, and therefore, not surprisingly, to the significance of attempted offences. The sixth-century Penitential of Finnian, for instance, will give a clerk the same punishment for actual or attempted infanticide, and both Finnian and Columban (*c.*600) punish a clerk for merely attempting to seduce a woman. Later Penitentials, and notably the *Corrector* of Burchard of Worms (*c.*1000), also show an awareness of intention, and therefore of the significance of attempted wrongs.[9] But the Penitentials do not, as a rule, extend this attitude to suicide, despite the interest of the 'Theodorean' group of Penitentials in the completed act. There is one exception, which puts the general silence into higher relief. It is the *Poenitentiale Vigilanum* (early or middle ninth-century), which states in clause 37:

> Whoever tries to kill himself by hanging or by any means whatever, and God does not abandon him to be killed, for which cause he does five years' penance.[10]

The *Vigilanum* text is impressive for its independence. Like the Theodorean texts on completed suicide it ignores the conciliar model, since neither the wording nor reasoning of *Vigilanum* echo those of the Toledo canon of 693, and it lays down quite a different penance. Its independence is only emphasized further by the distinct echo, audible in its opening definition, ('whoever tries to kill himself by hanging . . .') of the tradition represented by I Braga 16. On attempt, all this seems to suggest, the *Vigilanum* was having to improvise.

A man who failed to kill himself might nevertheless succeed so far as to do himself an injury. This fusion of an attempt to commit one offence with the completion of another, lesser offence can confuse the question how attempted suicide was punished. Medieval laws on self-injury still await their historian,[11] but such laws there occasionally were, and they can overlap with

[9] Relevant texts are collected in C. Vogel, *Le pécheur et la pénitence au moyen âge* (Paris, 1969), 53, 55, 68, 83–4, 110, and 215.

[10] F. W. H. Wasserschleben, *Die Büssordnungen der abendländischen Kirche* (Halle, 1851), 530: 'Qui se ipsum per suspendium vel qualecunque intentum interficere voluerit et non deserit Deus interfici, ob quam rem v ann[os] penit[eat].' I have again preserved in translation the grammatical anomaly of the original—an anacoluthon. Cf. J. T. McNeill and H. M. Garner, *Medieval Handbooks of Penance* (New York, 1938), 291.

[11] G. Constable, *Attitudes Toward Self-Inflicted Suffering in the Middle Ages* [= The Ninth Stephen J. Brademas, Sr., Lecture] (Brookline, Ma., 1982) addresses a different and broader subject, namely (mainly) religious asceticism.

laws on suicide. Thus a third ecclesiastical enactment to refer to attempted suicide does so in the context of self-injury. It comes in the earliest set of Old Norse laws to survive, the *Christian Law of the Eidsivathing*, written soon after 1152. One chapter of this Law relates to the question who might or might not be buried in a churchyard,[12] and the list of those thus condemned to non-burial includes not only those who kill themselves but also those who deliberately wound themselves, do not repent of doing so, and die of it.[13] Because the text of the law reads '*if* he dies of it', it must envisage the possibility that the culprit might not die. Its failure to mention any penalty in such a case could be read as a deliberate abstention from the punishment of unsuccessful attempts.

Both the rarity of these enactments, and the lack of a clear relationship between them, suggest that ecclesiastical law took only an occasional position on attempted suicide, and that, when it did so, its reaction was marked by a mildness contrasting with the severity with which it appears to have judged the completed offence. If that was the law, we can now ask, how far was the same contrast reflected in the practice of ecclesiastical judges, and other ecclesiastical authorities who had business with attempted suicide? A handful of actual cases will provide some guidance on this.

The Same in Practice: Cases From Ecclesiastical Records

The later Middle Ages, in contrast to the earlier, are unrepresented by specific statutes on attempted suicide. But the greater profusion of surviving judicial *acta* in and after the thirteenth century, in ecclesiastical as in secular courts, has occasionally left us, in lieu of legislation, the record of an actual court decision in this subject. Thus two cases survive in the registers of the Midi Inquisition, one from 1273 and the other from 1329, in which a prisoner either tried, or was feared to be likely to try, to kill himself, and preventive measures were taken. Since heresy was such a serious crime already, perhaps we should not expect the attempted suicide to make the heretic's offence even worse. There is at all events no hint that it did so, except in so far as an attempted suicide constituted a frustrating affront to the court.[14]

Occasionally we learn that a judge has reflected on the matter more deliberately. This is the case with an entry in the bishop of Lincoln's register for

[12] Bk 1, ch. 50; in R. Meissner, *Bruchstücke der Rechtsbücher des Borgathings und des Eidsivathings* (Weimar, 1942), 126–7. Date: K. von Amira, [rev. K. A. Eckhardt] *Germanisches Recht*, 4th edn, vol. 1: *Rechtsdenhmäler* (Berlin, 1960), 110.

[13] Ch. 50; Meissner, *Bruchstücke*, 127.

[14] *The Violent against Themselves*, 187–8, and notes.

1297. In a letter which has the character of a judicial rescript, the bishop advises the Benedictines of Missenden, in Buckinghamshire, whether or not to reconsecrate their church after an attempted suicide. A novice had tried to hang himself in a building adjacent to the monastic church. The monks feared that not only the church, but the graveyard too, might need reconsecration. The bishop's judgement was that neither did. He gave as his reasons that the building where the attempt had been made had been only *adjacent* to the church, not part of it, and that it was nowhere near the cemetery. A careful reading of this letter, in the context of others of the same sort, raises a suspicion that these technicalities were not the whole story, and that the bishop's dismissal of the monks' apprehensions was also a matter partly of their different gut reactions. The attempted suicide had traumatized the monks, while their well-educated, distant pastor was anxious to soothe them with a benign legal pretext. Whatever the force of that interpretation, the bishop's letter makes no allusion at all to any possible punishment for the attempted suicide. The case is left as a matter exclusively of reconsecrating buildings. The bishop depreciates the novice's 'puerile' act, but that is all.[15]

In the dossier of evidence from ecclesiastical courts there is only one possible discord, the endeavour by Joan of Arc's judges, under an inquisitor bishop, to make her confess to a suicidal intention in leaping from a tower at Beaurevoir.[16] Three considerations isolate Joan of Arc's case as exceptional. The spirit of the trial was notoriously political; the cause it heard was not one of attempted suicide but of heresy; and (thirdly) the function of the imputation in question—which it shared with a number of disparate charges which had nothing else in common—was to compromise Joan's character, so as to facilitate a conviction on the main charge. The imputation therefore proves little about ecclesiastical courts' attitude to attempted suicide. It only attests to the serious, but vague, disgrace which, we know anyway, generally clung round the idea of suicide.

The same negative lesson is taught even more clearly by non-judicial

[15] R. M. T. Hill, ed., *The Rolls and Register of Bishop Oliver Sutton, 1280–1299*, 7 vols (Lincoln, 1948–75), vol. 6 [= Lincoln Record Society, vol. 64 (1969)], pp. 18–19: 'Exposuit nobis ex parte vestra frater Michael de sancto Albano concanonicus vester quod quidam novicius domus vestre metu discipline quam ut moris est novicius regulariter et tolerabiliter imponendum subire timebat quasi pueriliter seviens in seipsum quodam cultello suo / [p. 19] guttur sibi intercidere conabatur et usque ad magnam sanguinis effusionem in domo deputato noviciis se in illa parte graviter vulneravit, propter quod dictus frater Michael nos consuluit utrum pretextu hujusmodi temeritatis et maculationis loci a divinis in ecclesia sit cessandum vel cimiterium vestrum censeri debent prophanatum. Nos vero pensata qualitate domus predicte in qua idem novicius taliter attemptavit, videlicet quod non est sub tecto ecclesie licet conjungat eidem immo sub dormitorio et quasi in quodam interstitio inter ecclesiam et capellam sicut dictus frater Michael asserebat, sentimus quod ob factum predictum neque a celebratione divinorum in ecclesia cessare, neque cimiterium vestrum execratum reputare debetis.'

[16] *The Violent against Themselves*, 93–6.

Church sources. In particular, it is regularly present in the miracle stories concerning suicide. *Miracula* as a genre, usually hostile to actual suicides, were more hospitable to attempts, which depicted all but hopeless personal crises as responding to a saint's miraculous intervention. Several cases were related in the previous volume of this trilogy, and it is worth taking note, in the present context, that none of these *miracula* refers to punishment other than spiritual admonition and care. Typical is Caesarius of Heisterbach's story, written down *c.*1220, of a nun who completed a long decline into melancholy by throwing herself in a river. Her sisters rescued her and blamed her for acting so 'cruelly'.

> Then, taking her back to the monastery they saw that she was watched over more diligently [*ad diligentiorem custodiam adhibuerant*].

The word *custodia* cannot mean 'prison' in that sentence, only 'watchful care', so we must conclude that the nun was unpunished.[17]

A number of other *miracula*, while including an aspersion on the suicidal deed, likewise give no whisper of penance, let alone punishment. One such miracle is attributed to St Thomas of Canterbury. A woman known to the narrator—her identity concealed with a care stultifying the story, but by that very fact giving it verisimilitude (since it is so bad a story there could be no reason for telling it if it were not historically true)—tries to hang herself. She is cut down by her husband. The narrator, William of Canterbury, sees her attempt as a *turpitudo*, and inspired by the Devil, but breathes nothing of any punishment.[18] Another such miracle is from eleventh-century Rennes, in Brittany, and is even more emphatic. A child had drowned in the local river, and his distraught mother got up that night, and ran down to the river to drown herself, 'impelled by malign spirits'. She was followed, restrained, taken home, guarded with extra care by her own family, and, best of all—after prayer to a saint benignly forgetful of the mother's earlier obedience to malign spirits—had her son restored to life.[19] This indulgence was not refused even to worse offenders. Around 1182 a deacon of Salzburg fell into the power of a demon after mocking the miraculous power of the relics of the city's chief saint, St Virgil. The demon made the deacon hang himself by the bell-rope. He was cut down and nursed back to apparent health, but after a few days he announced he proposed to burn down the house he was in so that he would die in the fire. His fellow canons did, at this point, put him under forcible restraint, but for his own good, not as a punishment. After some weeks the deacon finally calmed down, gave up his suicidal plans, and explained how a demon had entered him at the moment he had mocked the relics. It had just departed. The

[17] *Dialogus miraculorum, distinctio* 4, ch. 40; ed. J. Strange (Cologne, 1851), vol. 1, p. 210.
[18] *The Violent against Themselves*, 31–2. [19] Ibid., 258.

story is retold with astonishment and sympathy. The demon comes very badly out of it, no one else. The deacon is not expected to do any more penance than that provided by his painful experiences.[20]

A critic might, conceivably, allege an exception in the thirteenth-century case history of a Cologne woman called Agnes who, after nearly committing suicide on the Devil's advice, was saved by the Virgin Mary, and finally went to Rome for absolution and passed the last years of her life in a convent, 'in maxima poenitentia'. But a critic who argued this would be disingenuous. Agnes's adventures as a whole show that her 'utmost penitence' was not for the suicidal impulse as such. Just before it she had drowned her baby, born from incest with her uncle. That gave ample raw material for penance, even for a capacious conscience; which Agnes's was anyway not, since her adult life had begun as it ended, in a convent, only abandoned because soldiers had broken it up. The narrator, an experienced friar confessor, presents the suicidal episode as just one of many vicissitudes in Agnes's troubled life, and attributes it specifically to the Devil. Agnes herself is to be pitied and wondered at, not condemned.[21]

If doubt remained about the drift of *miracula*, the best-known of them all would remove it, namely the story of the pilgrim to Santiago de Compostela, who killed himself on the Devil's suggestion and appealed, after death, to St James and the Virgin, and was miraculously restored to life. No one made this young man become a monk. According to the less obviously supernatural section of the narrative, the young man *asked* to become a monk, at Cluny, and was refused. The abbot, St Hugh, interviewed him, learned his aged mother was still alive, and told him to go home and look after her and take his dreadful experience as a warning.[22] No version of the story carries any whisper of penance or punishment after what looks—and must have looked to contemporaries—like the most deliberate possible attempt to commit 'the worst of all crimes'. Since the Santiago suicide miracle circulated for the last four medieval centuries in most western European countries, in and out of churches, and no trace of criticism survives of its doctrinal implication in this particular, we must assume this implication was generally thought to represent a pious and proper Christian reaction. The Devil, not the boy, took the blame.

Attempted Suicide in Civil Law: Theory

Ecclesiastical law; ecclesiastical practice. Among secular lawyers, as distinct from ecclesiastical, one category had a great deal to say about legal theory

[20] Ibid., 323–5. [21] Ibid., 268–71. [22] Ibid., 278–86.

on attempted suicide. Since their arguments throw a light on certain matters near the heart of our subject, the arguments will be worth following in some detail. The category is that of civilian jurists, alias commentators on Roman law. In their approach to attempted crime, suicide has a special place, for a simple reason. Although theoretically innocent in Roman law, suicide was—once more it is an apparent paradox—one of the first subjects on which medieval jurists took notice of attempt; and this fact, in turn, was due to a peculiarity not just in the law, but in suicide, namely that, if suicide is a crime at all, it is the only one whose effective punishment adheres exclusively to the attempt. Suicide being a maverick here again, even in respect of mere attempt, it creates a unique pattern of effects in the law surrounding this aspect of it.

A journey through the jurists' reasoning on attempted suicide has to begin with their reasoning on criminal attempt in general. Once the layout of their thinking on that is mastered, suicide will easily be fitted into its place.

Criminal attempt in general

As an earlier section of this chapter was devoted to canon lawyers, this one will concentrate on civil jurists, the ones who influenced secular courts most directly; but an eye must still be kept open for the canonists' contributions, which play an essential role in the story. After Gratian (*c.*1140), the canonists certainly borrowed more and more freely from Roman law. But they had always had sources of their own, and their own viewpoint, and these meant that influence also flowed the other way, from canon to civil, and we shall see this influence at work at a critical point.

In general, the Roman law of Justinian was reluctant to punish attempted crime at all. It held to the principle, stated earlier in this chapter, that *nuda cogitatio* is not the law's concern. This principle was only inverted late, and for peculiar reasons, to deal with the special ecclesiastical problem of heresy.[23] It is true that there had long existed philosophical doctrine contrary to the principle, from Plato and Seneca, which insisted that malicious or anti-social thought *was* something for the law to worry about.[24] But courts had to be practical and calculate practical consequences. So lawyers kept well away from 'bare thought', and in most legal areas this had, among other effects, that of discouraging courts from punishing attempts. One illustrative example in the *Digest*, later subject to hot debate, concerned a thief who entered a house with a clear purpose to burgle but was prevented. The law said he was not a thief. He could only be punished as a thief by misdefin-

[23] Engelmann, *Schuldlehre*, 23–5; Kuttner, *Kanonistische Schuldlehre*, 55; Zuccotti, '*Furor haereticorum*' (as on p. 447, n. 67 below).

[24] Hall, *General Principles*, 558.

ing the term. 'What harm did the attempt do if it led to nothing?' the famous Antonine jurist Ulpian had asked rhetorically. All a court could fasten on such a would-be thief, the ancient jurists said, was that he might have broken a door or a wall in trying to get in, that is, committed a lesser offence.[25] But this was not quite the same thing as punishing the attempt at the more serious crime.

During the early part of the medieval revival in Roman law, this indifference to attempt remained unstirred, for there was little to stir it, least of all the practice of contemporary courts. The indifference is still present in Accursius's influential *Glossa ordinaria*, *c.*1240, which says next to nothing new on the subject of attempt. Here, as in other respects, the jurists who inherited the Gloss, known as the Commentators (with a capital 'C'), were more adventurous in colonizing new conceptual fields. Attempt was one such field. Around 1310, already in the Commentators' period, Cino of Pistoia summarized the history of the whole subject of attempted crime as follows:

> The ancient authorities were cursory in their treatment of this subject, but recent jurists have touched on it at greater length. One such was Odofredus [de Denariis, †1265], whose views were incorporated by Accursius the Glossator [†1260] into an addition to his Gloss. Jurists even more recent than these have discussed the subject at enormous length, though it must be said that some have brought so many irrelevant and useless observations to bear on it as to have obscured its main issue. For my part, therefore, I shall merely indicate the essential points.[26]

Cino went on to discuss an offence that fed much of medieval jurists' debate on attempt, and was perfectly qualified to do so. To be so qualified an offence must be a single discrete act, irreversible and dreadful, yet one whose preliminaries entailed no damage at all, and so could not form the basis of a separate lesser offence. An offence of this kind forced legal thinkers, whether they wished to or not, to explore the effects of *nuda cogitatio* in a way that burglary failed to do (since the preliminaries of burglars involve a criminal trespass and allowed them therefore to dodge the attempt issue). There were a number of reasons why homicide, whether of oneself or of anyone else, could not constitute such an offence—not least because it may take days to commit, if the victim is only wounded at first and dies later. The offence in question is rather rape, and of the most heinous sort, that is, of a nun or consecrated virgin. The preliminaries of such an act may be outwardly innocent since anyone can 'go to the convent door and knock' and indeed 'put up

[25] *Digest*, 2, 2, 1, 2 [ed. Mommsen, in *Corpus iuris civilis*, 16th edn. vol. 1 (Berlin, 1954, p. 47]; quoted by Cinus, *De episc. et cler.*, loc. cit. §§3 and 4 [fols. 132^{rb}, 14ra], and referred to by Baldus, loc. cit. [fol. 36^{rb}].

[26] *Comm. Cod.*, 1, 3, 5, §1; fol. 13^{rb}. My translation follows Cino's last-uttered principle.

ladders and call out' (to quote Cino of Pistoia)[27] without committing tangible damage. But was the law to stand impotently by in the face of such a miscreant? The danger was just too dreadful, the crime in question being impossible to reverse. It was this situation alone that concentrated juristic thought on the question of attempted crime, and in particular on a clause in the *Codex* which promised capital punishment for anyone who 'not merely rapes *but even tries to rape*' a consecrated virgin.[28]

'Even tries': the problem this phrase provoked was that of reconciling the capital punishment of someone for 'even trying'—to rape a nun who remained in fact unraped—with the law's principle that *nuda cogitatio* was not its concern. Having isolated the problem, the medieval Commentators poured on it all the resources at their command, resources drawn from the rest of the *Corpus* of Roman law, from such theology and canon law as they knew, and from court practice. From the *Corpus* of Roman law came a distinction destined to have special application to suicide, the distinguishing of a separate category of crime to be seen as 'atrocious'. While most criminal attempts were not punishable, the lawyers said, attempts at 'atrocious' crimes were.[29] That got out of the difficulty occasioned by that particular text on the rape of nuns, and incidentally explained the severity of the punishment of attempts on the sovereign's life (including, in due course, that by Damiens). By another route, the same principle led medieval jurists, despite their rule about *nuda cogitatio*, to punish the 'bare thought' of heretics.[30] Included among such atrocious crimes were certain classes of homicide, and given the right conditions, it was a short step from here to the punishment of attempted suicide.

The lawyers would never have taken this step, however short, if Roman law had been their only resource; but it was not. I spoke earlier of cross-frontier impulses between one area of learning and another. Not only did the Commentators' omnivorous appetites for reading ease the passage of these impulses. They did so in no field more fruitfully than in that of attempted crime. This stands to reason. Each learned discipline is expert on its own sector of reality. Some dwell on hair-fine, reflective areas that invite endless theory, others on the rough practicalities charted more effectively by experience. The example of the first *par excellence* is theology, since in the last resort

[27] Cinus, loc. cit. §§3 and 4; fols. 13^{rb}, 13^{vb}.

[28] *Codex* 1, 3, *De episcopis et clericis*, §5 (Jovian, AD364) [ed. P. Krueger, in *Corpus iuris civilis*, 6th edn, vol. 2 (Berlin, 1954), p. 19]: 'Si quis non dicam rapere, sed attemptare tantum matrimonii iungendi causa sacratissimas virgines ausus fuerit, capitali poena ferietur.'

[29] Cinus, *Comm. in Codicem*, loc. cit., §4; fol. 13^{vb}.

[30] Baldus de Ubaldis, *Commentaria*, 3 (edition of Venice, 1615, fols. 36^{ra}, 36^{vb}]; cf. Engelmann, *Schuldlehre der Postglossatoren*, 24; H. Maisonneuve, *Études sur l'origine de l'inquisition*, 2nd edn (Paris, 1960), 29–36, 83–90.

theology is uninterested in everything *but* intention (*nullum peccatum nisi contra conscientiam*). Theology came a step nearer practicalities where it flowed out into canon law, of which the penitential books and *Summae confessorum* were part, and whose specialists did deal with practicalities occasionally roughly, but did so as envoys of theology, and hence always remembered the matter of intention (sometimes exclusively, or in respect of attempted simony).[31] At the other end of the scale, meanwhile, secular law-courts were interested only in acts. It was corpses, not (for the most part) evil thoughts, that stirred secular courts into consciousness of crime. Between these opposite areas of interest—pure intention and pure act—lay an enormous sliding scale where interest in one combined with interest in the other, in an infinite variety of alloys. The notion of attempted crime had to invoke this sliding scale. Its discussion therefore drew on the Commentators' entire width of reading, and made attempt, as a consequence, a uniquely specified channel for the passage of impulses from one legal sector to another.

We again see this exemplified in Cino of Pistoia. When Cino begins the debate on attempted crime he puts in one corner the old Roman indifference to *nuda cogitatio*;[32] but, since Roman law could provide nothing, for the opposite corner (the importance of intention) Cino turns to canon law and he quotes, as from a source his Roman predecessors did not possess, a canonist whom he calls Burchard of Worms, to the effect *punitur affectus licet non sequatur effectus*.[33] Since early medieval Latin words connected with *poena* are ancestors both of our 'penance' and our 'punishment' (or 'penalty'), that Latin sentence can be rendered 'intention attracts penance even if it is not fulfilled.' This is a mere example but is typical. Throughout juristic discussions on attempt, that is to say, canon law is in the background like an elder brother, an elder brother we shall see, in a moment, brought in to help with the problem of attempted suicide.

One cross-frontier impulse thus came into juristic discussion from canon law. The other main one came from the other direction, not from above but from below Roman law, from practical justice. The jurists might look down on courts with fastidious disapproval—they 'were paid to', as learned advisers generally are—but legal influences passed up that pyramid as well as

[31] Kuttner, *Kanonistische Schuldlehre*, 40–2, 51–62. Simony: 53–4 (the canonists' view was encouraged, indeed almost dictated, by Acts 8: 9–24).

[32] In the form 'cogitationis poenam nemo patitur', a phrase from Ulpian quoted in *Dig.* 48, 19, §18 [ed. Mommsen, p. 687], quoted by Cino, loc. cit., §2 [fol. 13^{rb}].

[33] Ibid. [fol. 13^{rb}]. The phrase is not, in fact, to be found in Burchard's *Decretum* (in which a computerized search for 'affectus' yielded only two passages, both irrelevant here, namely in bk 1, ch. 152 and bk 19, ch. 6 [*Pat. lat.*, 140, 594A, 977C]). But the survival of an abundance of comparable phrases by various canonists leaves no doubt that Cino was quoting a canonical source: Kuttner, *Kanonistische Schuldlehre*, 58–9.

downwards. This was not only because jurists had a lawyers' respect for tradition, however rough, but because they were themselves men of their generation. Some, after all, had been judges, administering the law as it was, perfect or imperfect, and knew from experience how things had to be done.

This time it is Peter of Belleperche, Cino's French forerunner, who best illustrates the effect of the impulse. Peter is discussing the old Roman exculpation of would-be burglars, the argument that said that if they had not stolen anything they were not thieves and therefore could not be punished. All of a sudden, as he considers the knotty question, Peter flings his *Corpus iuris civilis* to the floor with a thud and becomes a French judge. We can almost hear it:

> Let me put a case to you [writes Peter of Belleperche] a case which attracts much opposition and on which non-academic judges [*rustici*], in particular, make no concessions. A thief gets a key to your room in order to steal, but you catch him before he has taken anything. Does he not remain a thief? The *Digest* says no and refuses to punish him as a thief, despite the gravity of theft as an offence [Peter is here alluding to the special status of the atrocious offences I mentioned, where the Romans had come to think attempt *was* culpable]. But I reply quite simply [Peter goes on] that the distinction between graver and lesser offences is *not* one I find applicable here. Just ask yourself what you think is permissible to a householder who actually finds a thief trying to steal, and catches him in the attempt, even if nothing has been stolen? Do you think the householder would not hand him over to the executioner? He most certainly should, and rightly so.[34]

The author of this passage ended his life as royal chancellor. It is easy to see why a king should have found attractive his combination of Roman legal erudition and a no-nonsense approach to palpable knaves.

Canon law and moral theology, then, on one surface; day-to-day justice, on the other; these two, and the vast, well-tended treasury of Roman law lying level between them; these were the sources of the commentators' range of doctrines. This range, and the subtlety of the subject, were around 1300 giving new variety and wealth to discussion of attempted crime, all the more because the range of influences was also geographical. Italy would come to be seen as the power-house of this deep and subtle jurisprudence; but the Italian legal renaissance—like the literary one with which it was contemporary, but strangely unconnected—was in fact, and conspicuously in the decades around 1300, the fruit of a French–Italian marriage, a mixed-age marriage with France as the senior partner, here as in the literary renaissance.[35] It was

[34] Petrus de Bella Pertica, *Lectura super prima parte Codicis Justiniani*; edn of Paris, 1519, fol. 17ra.

[35] That the famous Baldo de' Ubaldi failed to quote Dante, Petrarch, or Boccaccio, despite the relevance of some of their writings to his own doctrines, is noticed by H. Lange, *Die*

this marriage, simultaneously across disciplines and across cultures, that accounts for the jurists' readiness to discuss, along with all other attempted crime, that oddest of all legal oddities, attempted suicide.

Suicide

We have noticed repeatedly the capacity of suicide to create legal paradoxes. Nowhere did this capacity take greater effect than in the medieval transformations of Roman provisions on attempted suicide. It is no exaggeration to say that through these provisions, late medieval jurists turned the old Stoic law on suicide upside down. How they did so may prove instructive. It will be recalled that Roman law mentioned attempted suicide in three connections. A slave who had attempted suicide was blemished, the law said, acknowledging that such a slave fetched a lower market price. A soldier who attempted suicide was put to death, unless the suicide had been attempted for one of an approved list of Stoic motives. Thirdly—in what appears to be a fourth-century interpolation among classical laws on suicide—*Digest* 9: 48 included unspecified punishment for attempted suicide on the grounds that it is the act of a desperado. Now these Roman texts prescribing punishment for attempted suicide are, in fact, the only ones to imply that suicide is intrinsically wrong. None of those about the completed act do so. There is a technical reason behind this difference, namely that the only posthumous punishment the law envisaged for suicide itself was confiscation. For reasons peculiar to their status, confiscation did not apply to soldiers or to slaves, and indeed only under one circumstance (a capital crime) did it apply to free men. It follows that attempted suicide was the only kind of suicidal act of which Roman law could take notice. Put another way: any wish the law might have conceived to express disapproval of suicide could find expression only in respect of attempt—since its only sanction, confiscation, failed in respect of those human categories to whom suicide did constitute an offence. This circumstance alone can account for the privileged status of suicide in this particular, that a body of law which normally exculpated the completed act of suicide took unfavourable notice of attempts at it; and, conversely, that a body of law which normally (as has just been shown) ignored attempts at crime made an exception in the case of suicide.

This double peculiarity of suicide, in a Roman law context, had a corresponding effect when the *Corpus iuris civilis* passed into a medieval cultural milieu. What was new about this milieu was that it nourished the opposite moral assumption about suicide to the one defended by the old Roman Stoics.

Consilien des Baldus de' Ubaldis (1400) (Mainz, 1974), 36. Apart from Cino, Bartolo of Sassoferrato is a distinguished instance of an Italian jurist with debts to the theology of Paris.

This meant several things. First of all, it meant that it was the Roman law on attempted suicide, not on the completed act, which excited the most medieval approval and elaboration. In fact, long before the Postglossators had begun seriously to explore the law of attempt in general, the Roman law on attempted suicide had prepared legal minds to reflect on the broader subject of suicide *tout court*. *We* saw that the one Roman law text to condemn suicidal acts by free men was *Digest* 48, 21, 6: '*Cum queritur*'; which law deals with attempts. In a rare exception to the general indifference to attempt before Accursius, it is precisely *Cum queritur* that Rogerius's *Summa codicis*, written probably in Montpellier *c.*1160, chooses for inclusion. Rogerius quotes it verbatim:

> If a question is raised about the man who has turned his hand on himself but has not succeeded, whether he should be punished, as if he had passed sentence on himself, yes, he most certainly should be punished. For the man who has not spared himself will much less spare anyone else.[36]

Rogerius records his enthusiasm for this law by extending it with an ending of his own: 'Or he may be flaunting a vainglorious contempt for death, as in the teaching of some philosophers'.[37] Being a mere Glossator, not a Postglossator, Rogerius makes no suggestion about the kind of punishment the law might envisage.

This gap would be filled by the Postglossators, alias Commentators (in the technical sense). To read the Postglossators' commentaries on this point is to be reminded that authority has a waxen nose (*auctoritas habet cereum nasum*), for, starting from a Roman text on attempted suicide, some of them got as far as to invert the Roman law on *all* suicidal acts. The somersault forms an object-lesson in the history of men and their traditions, and is worth tracing in slow motion. The jurists made a beginning with *Cum queritur*, the one anti-suicidal Roman text of general application. Then its teaching was reinforced by an extension of the application of other Roman laws. One such was *Miles qui*, the law by which a soldier who attempts suicide is put to death, and which the broad medieval boundaries of military obligation were an invitation to extend. Everyone in 'feudal' society, after all, was potentially a soldier. Finally came the idea of an atrocious crime. Since one Roman text punished capitally an attempt at the atrocious crime of poisoning—the *Lex Cornelia de sicariis et veneficiis*—suicide only had to be put in the same class and made

[36] *Summa codicis*, bk 9, ch. 32 ['De bonis mortem sibi consciscentium']; ed. A. Gaudenzi, *Bibliotheca juridica medii aevi*, vol. 1 (Bologna, 1888), 7–174, on p. 174: 'Et si queratur de eo qui sibi manus intulit et non perpetravit, an debeat puniri, quasi de se sententiam tulerit, omnimodo puniendus est; qui enim sibi non pepercit multo minus alii parcet . . .'

[37] Ibid: 'vel iactatione quasi mortem contempnere videatur ut quidam philosophi fatiunt.' On Rogerius and his date, see Weimar, 'Die legistische Literature', in Coing, *Handbuch*, 200.

an atrocious crime for the provisions of the *Lex Cornelia* to apply also to suicide.

The severity of French courts in respect of suicide, as witnessed in Chapters 1 and 2, might lead us to expect by *a priori* reasoning alone that it would be a French jurist who most readily opted for this position. That would prove correct. The rough-and-ready judicial views of Peter of Belleperche have already been sampled, so it is little shock to hear him, in commenting on the Roman principle that 'crime is extinguished by death', include among the principle's perplexing consequences for suicide that even attempted suicide should be punished by death:

> Suppose someone has tried to kill himself, and other people come and prevent him. I say he should be hanged, because the law states [that is, *Ad legem Corneliam de sicariis et veneficiis*] that if anyone tries to kill someone else and is prevented, he should nevertheless undergo the penalty for homicide. The same should go for someone who tries to kill himself.[38]

Peter of Belleperche thus explicitly justifies his severity by including suicide, *qua* homicide, in the category of atrocious crimes, for which the attempt was punishable as if the offence had been complete.

A jurist could spin consequences of this kind all the more freely for the knowledge that the courts would probably not do what he said. Even in severe France, we shall see that medieval attempted suicides were not hanged. A comparable rule applies in Italy, with similar consequences—a neglect of practical constraint—for jurists' speculation. In Italy, Peter of Belleperche's paradox became sharper still, in that the capital punishment of attempted suicides became a recommendation of a whole succession of jurists. If we still doubt the capacity of suicide to create legal anomaly, we should pause to reflect on this feature of medieval Italian law. In the one medieval area where the punishment of completed suicide is almost wholly undocumented, learned lawyers can be found to say that *attempted* suicide should be punished capitally. It was again the Francophile Cino of Pistoia who began this tradition. Addressing the question of attempted suicide, Cino gathers the Roman texts tending towards its severe punishment. Starting with the 'desperado' clause in *Digest* 48, 21 ('If he will not spare himself, much less will he spare anyone else'), Cino completes his dossier with the laws concerning runaway slaves, soldiers, and unsuccessful would-be rapers of nuns, not pausing to ask what criteria might distinguish their cases from that of the attempted

[38] *Lectura super prima parte Codicis Justiniani*, ad 6, 22, 2: *Si is, qui tecum uxorem tuam heredem* [fol. 274^{v}]: 'Sed pone quidam voluit se interficere: occursum est ei et prohibitus est se interficere: dico debet suspendi. lex dicit quod si aliquis velit interficere alium: licet non potuerit debet puniri sicut homicida. ergo si seipsum voluerit interficere, ut *ff. ad legem Corneliam de sicariis, lex 1* [= *Digest* 48, 8, 1].'

suicide as such. The result follows inevitably. Attempted suicide should be punished severely, 'according to some, by death'.[39]

This extreme view was repeated as one worthy of respect by Italian Commentators throughout the fourteenth and fifteenth centuries.[40] In general, historians of the subject agree, the Commentators were humane and tended to soften cruel punishments. So their drift cannot have been in favour of this one. But the fact that they thought this consequence could be deduced from Roman law and went on entertaining it is still remarkable, especially so since no evidence survives that any attempted suicide actually *was* put to death in Italy in the Middle Ages, any more than in France or anywhere else. This disjunction reflects yet another element in the elastic relationship between law and practice, this time one relating to the meaning of 'capital punishment'.[41] Old conventions allowed the interpretation of this term to include exile. In the areas of late medieval Europe where Roman law was most widely respected, this commutation was significant. Whatever terrors exile might have held for the citizen of the ancient Roman Empire whose frontiers included the whole civilized world, it had quite another meaning in the atomized jurisdictions of medieval Italy. There, it could mean just exile from one's home town—bad enough, it may be said, for the Dantes and Romeos who suffered it, but not the same as having one's head cut off. While I have found no examples of the exile of attempted suicides in Italy itself, two such will appear in a moment in southern German towns, whose legislators certainly studied the well-known jurists like Cino and Bartolo, and must have learned of the provision from there.[42] The potential *double entendre* of capital punishment, at all events, was a shock-absorber of medieval civilian jurisprudence, that is,

[39] *Comm. in Codicem*, tit. 22, §5 [fol. 364^{rb}]: 'Queritur, quidam voluit se interficere, sed occursum est sibi, vel casu non consummavit delictum: nunquid punietur? De hac quaestione est casus *ff. de bonis eorum* lex ult § *sic* [= *Dig.*, 48, 21, §6; ed. Mommsen, p. 870]. *Authenticum* de re militari, lex *omne*, § *Qui se vulneravit* [= *Dig.*, 49, 16, §6(7); ed. Mommsen, p. 889] et punietur secundum quosdam ad mortem, vel aliter, ut notatur supra *De episcopis et clericis*, lex *Si quis non dicam rapere* [= *Cod.*, 1, 3, §5; ed. Krueger, p. 19] et supra de servis fugitivis, lex 4 [*Dig.*, 21, 1, §43(4); ed. Mommsen, p. 311].'

[40] See Bertachinus Fermanis, *Repertorium* [1471], under 'Occidere'; edn of Venice, 1590, vol. 3, fol. 460^{v}: 'occidere volens seipsum capite punitur.'

[41] For the following: Cinus, *Comm. in Codicem*, 1, 3, 5, §3 [fol. 13^{v}]: 'Unde intelligitur hoc de impropria capitis ademptione, quae est ademptio civitatis' and 'quia membri abscisio est capitalis poena'. Cino debates how far these modifications apply to different classes of attempt. Further matters arising from this understanding of capital punishment are discussed by Bartolo of Sassoferrato, *Comm. in Digestum*, ad 4, tit 5: *De capitis diminutione*; edn of Basle, 1562, vol. 1, pp. 342–5, but without specific reference to attempted suicide. That death really did mean death in the sixteenth century is the impression given by the citations in K. A. Geiger, 'Selbstmord im Kirchenrecht', 232, and (with judicious reference to the function of Roman law), idem, 'Selbstmord im deutschen Recht', 20–1.

[42] See below, pp. 420–1.

a feature which allowed its views on attempted suicide to pursue a logical extreme without upsetting public sensibilities.

There was one more such feature. In the midst of the jurists' understandable difficulties, an easy solution lay open to them as it did to any medieval Roman lawyer capable of lateral thinking. The solution had not been available in classical Roman times, when *Cum queritur* (on citizens' attempts) and *Miles qui* (on soldiers' attempts) had been first formulated. The solution lay in the duality of medieval learned law between canon and civil. Attempted suicide harmed no one, and could only with difficulty be made to trigger a reaction from the positive law that waited for dead bodies to get it moving. Instead, such an attempt betrayed an exceptionally distorted private conscience. For both reasons in combination, the whole question could therefore be kicked upstairs into canon law. The two-tier system of canon and civil law may not have been wholly logical. But it could not have survived its notorious crises—the quarrels of Pope and Emperor, archbishop and king, and so on—if it had not offered intuitively sensible solutions to real-life problems. Attempted crime was one, involving as it did the subtle relation between intention and act, of which attempted suicide was the perfect instance, the *nec plus ultra*. For positive law, as has just been shown, had to go into contortions of reinterpretation and *double entendre* to notice attempted suicide at all, and when it did, the solutions it came up with could be paradoxical. But among the mass of confusions occasioned by attempted suicide one thing remained crysal-clear, that the culprit had most certainly offended God. *Ergo* let him be handed over to God's law, in other words, canon law.

That solution, I say, is recommended by the logic of the medieval lawyers' situation. It was duly reached. Thus it is the solution proposed in Jean Boutillier's widely-read *Somme rurale*, written (in French) *c.*1370. Boutillier's *Somme rurale* reflects a legal experience less theoretical than that of Peter of Belleperche a century earlier, and lies closer to that of Louis IX's practical bailli, Philippe de Beaumanoir. But it has this difference from the latter that Boutillier, by 1370, had had the chance to learn from the Postglossators. He could therefore dare, as his predecessor the bailli had not, to venture on to the quicksand of attempted suicide. While Boutillier knows about the Postglossators' theoretical severity—the capital punishment of attempted suicide—he has a commonsense solution which involves neither cruelty nor fictions.

Item [Boutillier writes, after discussing various categories of *desespoir*], there is another sort of rage which does not accomplish its purpose, in which the deed is planned but not completed, and the person repents. This happens when someone

wishes to destroy himself or put [himself] to death but nevertheless the act is not performed; or who may contemplate killing someone else and then repents. Know, that although such a person comes to the cognizance of justice, and openly admits to having contemplated the deed, he has nevertheless repented of it. Since the crime would not [in this case] have occurred, he would not attract capital punishment, but would be liable to punishment according to civil practice, and very severely [*a punir comme civillement et tres griefvement*]. And if it was through a suicidal wish towards himself, unaccomplished, and the subject of repentance: know, that the person should be sent to confession and contrition according to spiritual counsel and to spiritual penance.[43]

A punir comme civillement et tres griefvement. Is Boutillier being euphemistic for the 'hanging' which Belleperche expressly recommended for such attempted suicides? Or does he mean exile in the Italian fashion? Or are the lines of his exposition vaguely drawn, and he is really only envisaging punishment for aborted conspiracy to murder? The third hypothesis is the most likely, but the answer hardly matters. For, true to its own idiosyncratic character, attempted suicide has walked straight through the door Boutellier has opened for it, by escaping from the incoherences of positive law to the safety of the *forum internum*, to become a matter only for the culprit's confessor.

This section has reviewed the problems, essentially insoluble, that jurists faced in devising appropriate penalties for attempted suicide. Attention has been drawn to the demonstration these problems provide of the capacity of suicide to confound legal systems. It should be added, lest a single apparent exception be thought to weaken the demonstration, that none of this applied, or not in comparable degree, to those failed suicide attempts which constituted a successfully completed *second* offence, most notably the offence of self-wounding. Every Italian commune had sanctions against the infliction of wounds. It had to, given the simmering violence chronic in all communes.[44] Usually the sanction was a heavy fine; and there was no cogent reason—there never is, in this particular matter—why the sanctions be understood to exclude *self*-wounding. This, at least, was the conclusion of the great

[43] *Somme rurale*, under the title 'La maniere de desespoir'; edn of Paris, 1538, fol. 84[rb]: 'Item encores y a aultre maniere de forcennerie qui ne lacomplit pas, mais la volunte en est encommencee & non accomplie dont sen repentit: si comme s'il advenoit que aulcun eut volunte de soy destruyre & mettre a mort & touteffois le fait ne sen ensuyvroit pas ou quil marchandaast d'aulcun tuer & puis sen repentist: sachez que iacoit ce que ce venist a la congnoissance de justice bien confessast avoir marchande de ce faire: touteffois il sen repentit: puis que le crime ne seroit advenu il ne seroit pas portable de peine capitalle, mais seroit a punir comme civillement & tres griefvement. Et se cestoit en volunte de desespoir de luymesmes non accomplie: mais sen repentit lhomme: sachez que ce chet en confession & en contrition de conseil espirituel: & en penance espirituelle.'

[44] They are conveniently calendared by J. Kohler, *Das Strafrecht der italienischen Statuten vom 12.–16. Jh.* Studien aus dem Strafrecht, Heft 2–6 (Mannheim, 1897), 163–5.

fourteenth-century Commentator Baldo de' Ubaldi. Perhaps Baldo remembered St Augustine's even-handed treatment of killing another and killing oneself, equally outlawed, in Augustine's view, by the commandment 'Thou shalt not kill.' Perhaps he also remembered—or intentionally forgot (the same thing)—Aristotle's not quite conclusive discussion in the *Ethics* whether a man can be unjust towards himself. At all events, Baldo asserted squarely that self-wounding and the wounding of another are the same offence. 'A crime against oneself constitutes no less an offence than a crime against someone else,'[45] and he justified, on that principle, the application of anti-wounding statutes to the wounding of oneself. None of the statutes' wording actually mentions this application.[46] Baldus acknowledged that. But he said by not *ex*cluding it they must have *in*cluded it; and in a moment we shall find reason to think some courts, especially towards the Renaissance, took the same view.

So much for legal theory. Legal theory and practice were often different, but different does not mean unrelated. It is now time to look at the records of secular courts and see what actually happened.

The Same in Practice: Cases From Secular Records

That the English and continental secular judicial records give two different pictures, in the matter of attempted suicide, partly reflects differences in the records' origin. The English king would not prosecute where he could not gain, and since attempted suicide did not, as such, give rise to confiscation, the records only mention it accidentally. In the case of the Eyre and Westminster rolls, such accidental references came predominantly in one context, that of a family murderer whose attempted suicide is adduced as proof of insanity, when it is only a question of whether the killer is safe to be let out, and how he is best guarded if not.[47] In the case of the coroners' and Eyre rolls, allusions are more accidental still, sufficiently accidental, indeed, to suggest the law

[45] *Liber Extra*, Proemium: 'Rex pacificus', §27: 'nemo sibi infert vim . . . ; ideo si statutum dicit, si quis per vim vulneravit, non includitur ille, qui vulnerat se ipsum, sed simpliciter loquitur dicendo, si quis vulneraverit, punitur pena statuti, quia delinquere in se non est minus delictum quam delinquere in alium.' Quoted by G. Dahm, *Das Strafrecht Italiens im ausgehenden Mittelalter: Untersuchungen über die Beziehungen zwischen Theorie und Praxis im Strafrecht des Spätmittelalters, namentlich im XIV. Jh.* Beiträge zur Geschichte der deutschen Strafrechtspflege, ed. M. Grünhut and E. Schmidt, vol. 3 (Berlin and Leipzig, 1931), 349.

[46] Kohler, *Das Strefrecht*, 163–5.

[47] Examples in N. D. Hurnard, *King's Pardon*, 51, n. 5, 162 and 165; and C. H. Talbot, *Medicine in Medieval England* (London, 1967), 181 (the case of Richard Blofot at Norwich in 1270). Twenty-two other attempts, all unpunished, which got into the legal records, are noted in the Register of English cases at the end of *The Violent against Themselves*, on pp. 434, 438–42, 444–8, 450, 452, and 455.

was positively indifferent. Thus in 1394 a girl was drowned while trying to save her mother who (the mother) had *tried* to drown herself in the Severn, but had failed. The otherwise discursive report says nothing at all about what happened to the mother, that is, to the *attempted* suicide, and this probably means nothing at all did happen.[48] That this apparent indifference to attempted suicide may have been general is also suggested by the absence of any mention of punishment for attempted suicide in English chronicles.

Continental records reveal a different picture. Attempted suicide attracts punishment of two different kinds, one regular, one palpably variable. When the attempt involves self-wounding, that is, a completed lesser offence, a certain regularity is detectable in the punishment; when not, not. When the offence is only attempted suicide, that is to say, the range of punishments is remarkable for their arbitrariness. Self-wounding—a completed lesser offence—occurs in two cases from France's north-eastern corner. One, dated 1263, is from the criminal register of the échevins of Douai. An immigrant from a nearby settlement had taken lodgings with a widow in Douai, and one day in the kitchen:

> it happened that he lost his senses and took a bread-knife and wounded himself in the stomach. He made a big, criminal wound [*plaie de banlieu*]. He admitted the fact, told the échevins that he had caused the wound himself, and that he had done it because of enemies and because of despair.[49]

The royal bailli and the échevins agreed that the suicidal man should be kept in custody, though he was released on bail after the doctor had seen him. On his release, the bailli asked the échevins for a sentence. They imposed a fine of sixty pounds; this may, again, only have been a penalty for the completed offence of self-wounding. Other entries in the same register indicate that a sixty-pound fine was common for offences of medium gravity (like persistently selling freshwater fish illegally) and was sometimes commuted for less.[50]

A second case from this corner of France is one recorded in a Parlement register.[51] It is that of Pierre le Drapier, a 'notoriously married clerk' of St Quentin (some forty miles from Douai), who in March 1351 acquired a gash in his throat. The record is mysteriously silent on how Pierre got the gash. The town's échevins nevertheless suspected it was self-inflicted, and insisted Pierre be put in prison, to be nursed there if need be. For all the nursing, Pierre was

[48] Examples in Hurnard, *King's Pardon*, 447, from London, PRO, JUST 2/146 in 5d, # 3.
[49] G. Espinas, *Vie urbaine de Douai*, vol. 3, 327, No. 427; referred to also ibid., vol. 1, p. 782.
[50] Espinas, vol. 3, p. 292, No. 374, and *passim*.
[51] Retold in *The Violent against Themselves*, 195–7.

dead a few weeks later. The local *guardien* (protector of royal interests) seized the dead man's goods, apparently on the grounds that the wound in his throat had been self-inflicted and that this was therefore a case of suicide. The dead man's family, with the support of the nurses who had nursed him in prison and the bishop's Official, collaborated to frustrate the *guardien*, denying the gash was self-inflicted. All we, for our part, have to notice is that, although Pierre did die, the échevins had not waited for him to do so before insisting on his arrest, as if the mere fact of self-wounding (a fact of which the échevins claimed to have no doubt) was enough to put Pierre at the law's mercy.

The impression from areas subject to the French crown, still not uniform, is that mere attempted suicide (without any wound) could go unpunished. One Letter of Remission, in particular, from August 1350, implies this. It pardons a 70-year-old man from the Vermandois for killing his wife. The four surviving children, who faced the prospect of seeing their father executed for killing their mother, pleaded that their father was not in his right mind, alleging that three years earlier he had been driven 'out of his senses and memory' by 'the malady of gout' and was therefore not in a state of moral responsibility. Among proofs of this condition was that their father had in that period 'tried to throw himself down a well and to kill himself and send himself to perdition, and would have done so but for the diligent guardianship of his late wife'. The records give no breath of a hint that these previous attempts at suicide attracted punishment at the time, only tighter guardianship.[52]

A handful of cases from the Empire should be mentioned beside these. Italian judicial records, virtually bare of completed suicide, yield two cases of attempt. Both are from Florence, both involve a wound, both involve a fine, and both (because the fine is for the same amount both times) combine to throw light on the thinking behind the sanctions. They are dated just after 1300, and 1379. In each case a man tries to cut his own throat, is saved from death, and fined 200 *lire*. The first culprit, described in the *podestà* register merely as a 'man from the Mugello', could not pay the fine and was imprisoned in the *stinche* (the city's prison for debtors), though we are not told for how long. The second man apparently paid the fine and was quit. The significance of the 200 *lire* fine, inflicted both *c.*1300 and in 1379, is that the *podestà* statutes of 1325 lay down a fine of that sum for any wound that spills blood. That suggests that the view of Baldo de' Ubaldi was behind these punishments, namely that self-wounding was covered by the statutes on all

[52] Paris, Archives Nationales, JJ 78, fol. 145[r]. The case is that of Jean le Vignon. Characteristically, the document uses the phrase 'hors de [son] sens & [de tout bon] memoir' three times, as if insisting, against what the court feared a casual observer might otherwise have supposed, that the father's attempts at suicide were not culpable.

wounding (on the assumption, of course, that the 1325 statute was merely declaring the 200 *lire* penalty, and not inventing it).[53]

This Italian evidence may also throw light on the cases from Douai and St Quentin, both of which also involve self-wounding. Municipal law in that area was not above learning from Italy, though it is clear that in the north, at least, the law still admitted discretion: for at Douai, the royal bailli had not at once pronounced a sentence but had asked the échevins to declare one—and it was a sentence which anyway may again have been commuted because the culprit could not pay (widows' lodgers being commonly poorer than those fishmongers who had to pay the same sixty-pound fine). Meanwhile, near to Douai and St Quentin though theoretically part of the Empire, Hainault further demonstrated, by taking yet another approach, the enduring arbitrariness of law in this regard. In Hainault, a serious attempt at suicide would occasion a sentence to go on a pilgrimage; the secular committal court acting, that is, *à la* Boutillier, by imposing an ecclesiastical penance, providing, as well as everything else, yet another instance of the cross-border impulses that in practice blur the line between the two jurisdictions.[54]

The fifteenth century yields yet more examples of variety. The Metz town chronicle—a quasi-legal source, on roughly the same imperial fringe as Hainault—tells under the year 1484 of a lovesick youth who hanged himself, but was cut down before he had done any fatal self-injury. The youth was stripped naked and birched.[55] Deeper into southern Germany, in roughly the same period, the authorities in Frankfurt are found hesitant to impose any punishment at all on attempted suicide.[56] There, one would-be suicide was arrested on discovery and brought to the magistrates, but let off at once without further sanction, while another got a friendly word of comfort, and was told not to do such a thing again. But even Frankfurt could be severe at times. In one case, of 1447, the culprit is dismissed as 'not punishable' but still declared to be henceforth *rechtlos*, that is, deprived of his status as full citizen.[57]

[53] R. Davidsohn, *Geschichte von Florenz*, vol. 4, pt 1, (Berlin, 1922), 312, for the earlier case. The *stinche*: G. A. Brucker, *Florentine Politics and Society, 1343–1378* (Princeton, NJ, 1962), 429. The 1379 case is in Dahm, *Strafrecht Italiens* (as in n. 40 above), 348–9, with reference to the statute of 1325 [bk 3, ch. 45].

[54] F. Cattier, *Évolution du droit pénal germanique en Hainaut* [= Mémoires et Publications de la Société des Sciences des Arts et des Lettres de Hainault, year 1894, pp. 1–237], 96.

[55] J. F. Huguenin, *Chroniques de la ville de Metz*, 471–2: 'lequel fut trouvé au fait et subitement secouru et despendu et ne fut point estranglé. Et incontinent que la justice en fut advertie, ilz le firent apprehendeir et, à force de verges, tout nud tres bien chaistoyer.' The case is mentioned by Bayet, *Le suicide*, 143, and Schmitt, 'Le suicide', 24, n. 38.

[56] To the surprise of G. L. Kriegk, *Deutsches Bürgherthum*, 220–1, in view of the severity of punishments for successful suicides. Kriegk, 549, n. 187, quotes reports of attempted suicides from 1447, 1458, and 1498.

[57] Ibid., quoting the *Bürgermeisterbuch* for 1447, fol. 71: 'Der sich czu Soffenheim erhencken wulde, ist darumb nit bussellig, sunder man mag yne forter rechtloiss halden.'

The same stern penalty, again in southern Germany but perhaps in an area more exposed to the influence of Roman theorists, of expulsion, is recorded for a weaver's apprentice in Basle. In 1425 he had tried to hang himself, but was discovered and cut down by passers-by and at first released, but then apprehended again, put in neck-irons, ducked, and expelled from the town for ever.[58]

More distinctly than in the case of the novice at Missenden, we may here be in the presence of another oscillation, of the kind that clings to this subject. It is to be noted that here it is the authorities, not the traumatized first-finders of an attempted suicide (like those monks at Missenden), that are the more severe. Those two expulsions may reveal another regularity amid the diversity. As I have suggested, some of these municipalities may have been reading the Roman jurists and seen expulsion from the town as a kind of capital punishment, as prescribed by some ingenious Commentators for attempted suicide.[59] Whatever the truth of that as regards Basle, and to some extent Frankfurt, it did not stop the general oscillation of south German law on this subject. Thus in Nuremberg, in the same epoch, attempted suicide, so far from attracting capital punishment, normally went completely unpunished. Only once, in 1393, do we find a man punished for trying to stab himself. He was imprisoned for three years. But that punishment may have been imposed because the man had done it in the Council Chamber, rather than just anywhere. It was common to impose heavier penalties for offences committed in sacrosanct areas. So this three-year sentence may have reflected an element of defilement, in this like that case of attempt in far-off Missenden.[60]

Conclusion

A handful of scattered cases, as these are, barely support any firm general conclusion. But in the absence of contrary evidence, they suggest that secular courts, at least in the later Middle Ages, often did punish attempted suicide *per se*, with punishments notable above all for variety. If self-wounding was

[58] H.-R. Hagemann, *Basler Rechtsquellen im Mittelalter* (Basle and Frankfurt, 1981), 287: the case of a weaving *Knecht* who had tried to hang himself. He was put in a neck-iron, 'floated' [daraufhin geschwemmt] out of town, and told never to come back. Cf. Kühnel, 'Zum Selbstmord', 489.

[59] Above, p. 414.

[60] H. Knapp, *Das alte Nürnberger Kriminalrecht*, 118 and n. 7. Missenden, p. 403 above. Higher penalties for violent crime in certain places: Kohler, *Strafrecht* (see n. 44), 368–70, for a number of Italian communes. Bartolo of Sassoferrato treats the provision as commonplace in Italian cities ('per civitates in Italia sunt plura statuta [doubling punishments for offences committed in the piazza, and on certain occasions]'); *Comm. in Digestum*, in *Dig.*, 48, 19, 41, §4; edn of Basle, 1562, vol. 5, p. 919; while Angelus Aretinus (†1451), *Tractatus de maleficiis* devotes a whole section to the subject (edn of Venice, 1598, fols. 111–13).

proven, the punishment was often a fine. Otherwise we have found exile, flogging, loss of civic status, pilgrimage, and mere admonition, all among the penalties. Half a dozen different punishments have been exemplified in about as many cases. This variety, stretching as it does between severity and leniency, can be seen as another expression of the oscillation already identified as a characteristic of the moral and social reactions to completed suicide. It was as if, when the offence was clearly an attempt at suicide, a judge did whatever came into his head, or told other judges (like the échevins at Douai) to do whatever came into *their* heads. Some judges may have treated this deliberately arbitrary principle as the rule.

With the build-up of the absolutist state in the early modern period, punishments for attempted suicide are more directly specified, and usually more severe. It is now that some Italian states actually put the Commentators' capital punishment into their statutes. This severity came less, perhaps, from changes in views on suicide as such (though they may have played a part) than from a growth in the number of capital crimes, a growth proportional to a more general extension of princely depositism.[61] In some parts of the Empire, where the law's reponse to attempted suicide might again be laid down by statute, the choice of punishment would be explicitly left to the judge. In the Empire north of the Alps, too, we find a sixteenth-century development which may cast retrospective light on the role of Roman doctrine in its earlier, medieval context. The development appears first in a Bohemian code. It distinguishes between attempted suicides by 'bad' and 'good' men. The former are to be given 'severe and extraordinary punishments', the latter only 'spiritual and corporal care'.[62] This stark separation between good and bad may represent one extreme outcome of the dichotomy established by the Roman law principle that suicide occasioned confiscation if it could be read as confession to a crime. After all, the attempted suicide of a scoundrel—or someone who *looked* like a scoundrel and who might reasonably be charged with *being* a scoundrel—simply went to prove he *was* a scoundrel, so he could fairly be punished as such. Anyone respectable, on the other hand, came in for the full benefit of the Stoic amnesty on suicide. Once again the law oscillated.

The sparse medieval evidence thus permits a few general assertions. It permits, indeed imposes, two in particular. One is that the punishment of

[61] C. Calisse, *History of Italian Law*, 411–2; Kohler, *Strafrecht* (see n. 44), 221–2, 229 (where it is to be noted that Kohler's more secure examples are all from the late fifteenth or sixteenth century); Bernstein, *Bestrafung des Selbstmords*, 8, 15, 17, for the less uniform position in sixteenth-century Germany.

[62] O. Bernstein, *Bestrafung des Selbstmords*, 8, 15, 18. Cf. Professor Signori's perceptive remarks on her pp. 39–40; also Schär, *Seelennöte*, 64; McDonald and Murphy, *Sleepless Souls*, 127–32.

attempted suicide had little to do specifically with the Church. The three ecclesiastical enactments—which anyway come from centuries when it is hard to distinguish peculiarly ecclesiastical offences from secular ones—are remarkable both for their isolated, mutually independent character, and for the moderate, penitential mode of the sanctions they impose. All other relevant evidence from the strictly ecclesiastical side, meanwhile, points the other way, usually suggesting no punishment at all. Secondly, we have noted what appears to be the chronically arbitrary character of penalties from the secular courts, and their corresponding variety in kind. It remains to underline, at least for the late medieval centuries from which examples survive, also their variety in degree. They vary from exile and flogging, by way of pilgimage, to mere spiritual admonition.

These two findings, limited as they may be in scope, suffice to urge their comparison with all other documents we have on attitudes to suicide; and this comparison, in turn, invites two further general remarks. The first concerns the relation of Roman and canon law, and confirms a lesson already learned with regard to their respective reactions to the completed act. Often, in this or that field of medieval law or politics, Roman and canon law can appear in tension, if not in conflict. The areas of conflict, like papal–imperial political rivalry, tend to obscure those where the two laws were in harmony. Increasingly in the late Middle Ages, there was much Roman law *in* canon law, and this not least because many of the causes they stood for were the same. In most practical matters, Stoicism and Christianity were not so far apart. In respect of attempted suicide, at least, the two laws appear to have been pulling hard in the same direction, against other forces independent of either. For the main body of Roman law, at least the late Roman law that medieval lawyers called by that name, treated attempted suicide as such as unpunishable. Wherever this law could be applied in its pure form it tended to that effect in courts. The law of the Church had the same effect, if for slightly different reasons—if we except the effects of the purely ecclesiastical penances and safeguards we occasionally find imposed: that is to say, no one is fined by an ecclesiastical court, no one goes to the bishop's prison, no one is arrested by *les gens de l'église*, for attempted suicide.

This convergence of Roman and canon law is the more striking when set over against the other main influence at work in the field, namely the practice of non-ecclesiastical courts and the substantial endorsement of this practice by jurists. Attempted suicide *was* punished, very often, by these authorities. Quite logically too, we might think. For if the completed act was so heinous as to curse the culprit out of the cemetery, why should not the attempt be treated as equally heinous? What deserves notice—and this is my second general conclusion—is that it was not. As a broad rule, attempted suicide was *not*

punished as if it was a heinous thing even to attempt, like regicide. Even the more extreme end of the range of punishments—exile, flogging, short-term prison—was far from representing the ultimate in medieval criminal punishment, and all were normal for a *mélange* of moderate offences. Nor was that extreme end of the range regularly reached. The sixteenth-century Spanish jurist Gomez, who already wrote in a century we know to have taken different attitudes, says such punishments were a matter of everyday experience,[63] but Feu, who remembered the late fifteenth century and agreed with Gomez that the law *should* be severe, was nevertheless prepared to admit that 'all' jurists take the opposite view and they absolved attempted suicides.[64] *We* happen to know, as one of the rare sure facts at our disposal, that a visit in Feu's boyhood to some southern German towns would have confirmed that observation as true even outside his native France.

The evidence on attempted suicide is enough and more, then, to lead our step-by-step enquiry on to its next question. Why, if completed suicide was systematically regarded as so dreadful, was the mere attempt treated so mildly and with such a conspicuous lack of system? When the law had a living culprit to punish, instead of merely his dead body, why did it so often, and with such chronic lack of methodical deliberation, do nothing when an attempt at suicide failed? Experts in jurisprudence are in agreement that the attempt at crime 'X' is, as a matter of fact, and usually has been, punished much less severely than crime 'X' itself, less—in so far as numerical estimates are possible—by 50 per cent or more. Among criminal attempts, medieval suicide nevertheless remains a maverick. The difference is frequently that between black and white and rarely—except, apparently, for some Roman jurists—less than between black and light grey.

Completed, after all, suicide was the worst offence anyone could conceive of; a long series of authoritative churchmen had said so, and secular judges, on a variety of motives some more, some less, religious, acted with a vengeance on that verdict when faced with a suicide's corpse and property. A failed suicide invoked quite other principles. It was not that his motives and circumstances mattered, that is, whether the suicide was prevented by a self-sacrificing child which endangered its life in a river to save a parent; or a

[63] Antonio Gomez, *Commentariorum . . . tomi tres*, vol. 3, cap. 2, §13; edn of Antwerp, 1634, vol. 3, p. 457: 'quod isto casu [attempted suicide] videtur iustum, & rationabile, quod possit per iudicem ex officio suo poena arbitraria puniri.'

[64] Johannes Igneus, *Commentaria*, on title *Si sibi manus*, §17; edn of Lyons and Orleans, 1539, fol. 93^{v}: 'omnes conveniunt tales [attempted suicides] immunes esse non tantum a poena, sed [also from testamentary incapacity, with authorities] . . . Et quamvis omnes sic simpliciter absolvant: non ego: & dico tales, si superstites maneant, notari infamia.' Feu would thus have seen at once through the prevarication of Philippe Braque's ever-ingenious advocate, in 1460, that suicide should not entail confiscation because the attempt would not have done. Cf. *The Violent against Themselves*, 200.

benevolent local, alerted supernaturally or otherwise and rushing in to cut a rope; or an unexplained accident of time or place. None of this mattered, in practice, when it came to dealing with a would-be suicide. Nor was it relevant in practice, as it might be in a miracle story, whether the would-be suicide had repented or invoked a wonder-working saint. Those who attempted this most dreadful of crimes and failed, be it even nine-tenths of the way through completing it, very often escaped any punishment at all. If punished, they were punished, until the very late Middle Ages at least, with sanctions whose variety implies a lack of settled principle, and whose moderation places them, on the severity scale, well below a range of everyday offences.

As if the disparity on its own were not remarkable enough, it is greater still in respect of the Church. It was the Church, if anyone, who insisted on the heinousness of suicide. Yet we have found that the Church rarely punished the attempt, and that when it did, its punishments were egregiously mild and of a conspicuously penitential character. Indeed the Church's reaction to attempt can amount to no punishmnent at all, but the opposite, in the form of an intensified care for the person who has made the attempt. Far from treating suicide as late Roman law treated atrocious crime—punishable in the attempt *à la* Damiens, as if the crime were complete—Church authorities on *these* occasions (when the attempt failed) were capable of responding to suicide as if it was barely criminal, but rather a blend of misfortune and folly.

The disparity in punishment between reactions to the completed and attempted acts was more, then, in the case of suicide than in that of any other offence, and calls with correspondingly more force for explanation. The explanation lies over a boundary. Earlier in the chapter I said there are features in law inexplicable in terms of law alone. Some entail investigation into psychology, more particularly, here, into the psychology of human groups *qua* groups, especially in their less sophisticated stages of development; in short, into anthropology. The question this chapter has ended by posing—as the price of its labour in answering another—has led to the boundary which history shares with anthropology, and to a sector of the boundary easy to identify, because anthropologists have already named it. It is the idea of pollution.

13

Act without Intention

The word 'pollution' is an ordinary English word, common today in respect of dirt in the natural environment. It has also a religious use, which goes back to late medieval English and, through parent-words in Latin, Greek, and Hebrew, to some of the earliest human records. It is this religious connotation of pollution that has entered the anthropologist's vocabulary, and will be of service at this point. Let us first consider what it is, and what it implies.

Pollution

The pollution we are talking about can be described as a condition part-way between the conditions we think of today as medical and moral: that is, it is a condition between contagion and guilt. Like contagion, pollution is an occasion for ostracism and fear; the polluted person becomes untouchable, and the polluted thing—be it an object or a name—can acquire the dangerous power known as taboo. The grounds of this pollution do not necessarily include guilt, as guilt would be understood now. Menstruating women have been seen as polluted. So have women who have just given birth, and must undergo purification (as in that otherwise anomalous Church feast, the Purification of the Virgin). To modern eyes, such pollution ideas are mystifying and seem at least *a*moral. Menstruation and child-bearing do not, as such, have any connection at all with morals. Indeed the pollution idea can seem actively *im*moral, because it can imply moral guilt where there is none, as in the punitive ostracism of Oedipus, referred to at the beginning of the last chapter.

So there is no question of identifying pollution with immorality. It can be the opposite. In many respects pollution is closer to a state of medical infection, like plague. A closer look nevertheless shows that, while not the same, neither are pollution and immorality completely unconnected. The bonds

that hold them together are two: a similarity in both externals and social function. The raped woman, after all, has participated in an act which would have involved guilt if done deliberately. So has Oedipus, by killing his father and marrying his mother. Nor, as a matter of observation, is there any denying that those who commit fornication or parricide commonly *are* guilty. More important still, many more people who might, as a matter of theoretical possibility, commit fornication or parricide, almost certainly *would* be guilty if they did so. It is this last contingency that gives pollution ideas their social function. For fornication and parricide are in this respect like plague. There are moral offences, as there are diseases, against which a human community must protect itself at all costs. The community must protect itself, that is, not as an an aggregate of individuals—any one of whom may suffer from the offence if another chances to commit it—but as a collective. Every member of the collective is both a potential trespasser and a potential victim, so all must guard themselves against any impulse which could lead to sexual trespass or parricide. The idea of pollution is in this way a social mechanism for self-defence. Like most mechanisms with this purpose it is materialistic and crude, and often overrides principles, and savages innocent people. But let us not forget what it is doing. It is defending the 'self' of a species. Whether individuals may legitimately be sacrificed to the self of the species is an academic question—academic in the good sense, that in civilized society philosophically minded people should debate it; but also in the bad sense, that living organisms, struggling for their very lives, frequently have to throw such nice dilemmas to the winds.

The idea of pollution is thus distinguished from its moral rivals by these two features: by its adhesion to a tangible, unmistakable material event without consideration for the mental state involved, and—based on that simple fixation on the material—by its function in supporting the norms that protect a community. The chances are (the rationale of pollution ideas imply) that infringers of the rules *do* know what they are doing. It does not matter, however, if they do not, since half the advantage of a pollution culture is that it reacts instantly, without pausing to debate that academic question. Principles and individuals may suffer, but they suffer to preserve a normative framework on which the collective depends. In respect of an East African people studied in the early twentieth century, the distinguished anthropologist Mary Douglas has summarized the moral dimension of pollution ideas as follows:

> Pollution rules by contrast with moral rules are unequivocal. They do not depend on intention or a nice balancing of rights and duties. The only material question is whether a forbidden contact [for the purposes of medieval European suicide read 'event'] has taken place or not.

Mary Douglas sees in the pollution rules 'something very like attempts to buttress a simplified moral code in this way'.[1]

'Very like', 'attempts', 'simplified': the claim made here may not be high, but it is high enough to give the idea of pollution, as thus conceived, a place in the history of morals and law. It invites the medievalist to enquire whether, in his own period, the idea may not have played a role in that period's moral and hence legal evolution; to ask whether (to put it another way) an unimpeachably abstract principle might not first have appeared in this ambivalent context and only gradually, by the irregular, many-stranded process familiar to all historians of culture, have acquired the refinement needed to lift it into jurisprudence proper. That is a wide-ranging hypothesis; suicide is just one potential field for its verification, and as such, being both deeply feared and intrinsically unpunishable, has qualities shared with no other crime. Our investigation of the suicide laws so far has revealed a number of anomalies which invite the testing of a hypothesis of this kind. That is what this and the next chapter will do.

Materialism in legal thought

Pollution—to repeat—was distinguished by two features: its adherence to material things and events, and its function as a protector of social norms. This pair of chapters will discover both features in the medieval suicide laws. Since the discovery involves two separate exercises the chapters will be divided accordingly. In this one, after a section devoted to the definition of terms, the next three sections will identify (in as many separate fields) people's preoccupation with the material accoutrements of suicide, as distinct from its associated mental states. Chapter 14 will then employ recorded cases and beliefs to show that the first function of the law was, in practice, to defend communities from something they were afraid of.

Having used the word 'materialism' about legal thinking, let me start by explaining what it means here. The suicide laws, taken as a whole, imply a moral principle, namely that it is wrong to kill oneself, a moral factor in the foreground of earlier chapters. If the moral dimension is found missing from this one it is because our task now is to discover, instead of it, the materialistic alloy in which the moral principle was embedded, and to trace the source of that alloy. That word 'materialist' can mean different things in different environments. But it implies, in all of them, an antithesis to whatever is conceived as non-material, say the intellect or spirit. This is why it is only in cultures which cultivate the intellect or spirit that the word 'materialism' can

[1] M. Douglas, *Purity and Danger* (London, 1966), 130 [new edn (Harmondsworth, 1970), 155].

have any meaning (as is the case today). Actual materialists are too immersed in the thing itself and therefore have no idea what materialism could possibly be.

My materialism, conceived for the purpose of understanding the minds of our medieval ancestors, will now be illustrated from legal and other documents relating to suicide. In reading these documents we should bear in mind that suicide may not have been the only thing conceived in this way and indeed, that in the centuries under consideration the same materialist view may have been widely taken of events generally. It would take another book to verify that, but happily the book has in some degree been written. Eric Auerbach's *Mimesis*—a book subtitled as a history of 'the representation of reality' in literature—has a section on the *Histories* of Gregory of Tours (†594), and has this to say of Gregory's way of seeing the world around him:

> Gregory's language . . . is but imperfectly equipped to organize facts; as soon as a complex of events cease to be very simple, he is no longer able to present it as a coherent whole . . . But [his language] lives *in the concrete side of events* [my emphasis].[2]

Auerbach goes on to demonstrate that Gregory's 'sensory participation in events' is 'much more direct' than that of any classical author.[3] The brutal life of Gregory's time 'becomes a *sensible object* [again my emphasis] . . . devoid of order, difficult to order, but tangible'.[4] Gregory's peculiarity consists, Auerbach says, in 'the re-awakening of the *directly sensible* [again my emphasis]'.[5]

Gregory of Tours wrote in the same generation that drafted the most enduring of the western suicide laws, the Braga Canon of 561,[6] and Auerbach's comments here will be far from irrelevant to its interpretation. Some elements of his portrait of Gregory may, it is true, be timeless, and a peculiarity of a minority of individuals in all ages, differing as much between one individual and another as between societies over time. (Auerbach's description of Gregory distantly echoes C. G. Jung's characterization of his 'intellectual extrovert'.)[7] But that need not affect the fundamentally historical character of the mentality as a whole, as characteristic of a particular age.

The application of the just-quoted formula to the suicide laws will confirm this, and at the same time help explain the laws. The latter will be found to

[2] E. Auerbach, *Mimesis: The Representation of Reality in Western Literature* (Princeton, NJ, 1953), 78. The particular subject of the comment is Gregory's description of the quarrel between Sicharius and Chramnesindus in *Historiae*, bk 7, ch. 477, and bk 9, ch. 19.

[3] Auerbach, *Mimesis*, 78. [4] Ibid., 79.

[5] Ibid., 82, and *passim* in chapter 4, pp. 67–83.

[6] Gregory worked on his *Histories* from *c.*576 to *c.*591.

[7] *Psychological Types*, transl. H. G. Baynes (London, 1923), esp. 416–34 and 618–28.

have in this respect three facets, to be examined in turn; and first, the laws' preoccupation with method.

The Laws' Preoccupation with Method

The texts

The first facet, present in most designations of suicide, was an unspoken preoccupation with the method of suicide. Not suicide as such, or suicide for this or that motive, but self-hanging, or self-stabbing, or some other concept concerning method was regularly in the conceptual foreground. Throughout the Middle Ages, the canon most often quoted as authority for the denial of funeral rites to suicides was that sixteenth canon of the first Council of Braga. The text of this canon was given in English in Chapter 5. Because my present argument depends on the precise meanings of words, I shall repeat the canon here in its original language. (The English can be referred to on p. 183.) The dead to whom the canon denied burial rites were:

hi, qui sibi ipsis aut per ferrum, aut per venenum, aut per praecipitium, aut suspendium, vel quolibet modo violenter inferunt mortem.[8]

Let us reflect for a moment on the anomaly here. Suicide is understood today as an act whereby someone voluntarily kills himself. The method, let alone the instrument, are immaterial. The Braga canon speaks of the method first. Its long adjectival clause ('qui sibi . . .': 'who . . . themselves') begins by listing the four methods of suicide which together, it was found in the previous volume of the present study, account for over two-thirds of medieval cases.[9] It adds, as if an afterthought, 'or by any method whatever'. Only at the end does the clause arrive at what we, today, would see as the essence of the matter.

But this peculiarity was not unique to the Braga canon, and its correct assessment requires its comparison with other canons and laws on the subject. The series naturally begins with the other surviving pre-Carolingian canon to punish suicide, the one for the Council of Auxerre, soon after Braga. The Auxerre canon refers to the man who:

se propria voluntate in aquam jactaverit, aut collum ligaverit, aut de albore praecipitaverit, aut ferro percusserit, aut qualibet occasione voluntarie se morti tradiderit.[10]

[8] J. Vives, ed., *Concilios visigóticos e hispano-romanos* (Barcelona and Madrid, 1963), 74.
[9] *The Violent against Themselves*, 404–13.
[10] C. de Clercq, ed., *Concilia Galliae, A. 511–695* (Turnhout, 1963), 267.48–51. An English translation is on p. 184.

I referred earlier to the seminal importance of the word 'voluntarie' in this canon. It is the rest of it that concerns us here, which shows that Auxerre was quite as method-minded as Braga. The same is true of XVI Toledo 4, the canon about attempts. Persons attacked by the 'plague of despair', it says 'seipsos malunt aut laqueo suspendio enecare, aut ferro vel aliis mortiferis casibus interimere'.[11]

In this respect, as in some others, the Penitential Books form a parenthesis in the history of early medieval canon law. The few Penitentials which do mention suicide, in the Theodorean tradition, are strikingly free of a method-based definition and refer only to the man who 'kills himself'.[12] But there are exceptions even here, namely those Penitential Books influenced by Braga after its intrusion into their genre by Halitgar and other rigorists. Thus Benedictus Levita's False Decretals use, for their indulgent suicide provision, a phraseology which does the splits between two parent traditions, conciliar and penitential. Benedictus writes of the man 'who kills himself or hangs himself with a noose [*qui semetipsum occidit aut laqueo se suspendit*]'. This phraseology, unlike that of the conciliar canons which put the general after the particular (cf. Braga, Auxerre, and Toledo: 'hangs himself . . . or kills himself in any other way'), puts the general description first, the particular second, the whole before the part. It is as if the non-method-minded Theodore was Benedictus's model and that Benedictus modified it by Braga's time-honoured correctness.[13] The other exception, besides Benedictus, is the late Old English version of Halitgar, which reads 'If a man slay himself of his own will with a weapon or with any means the Devil offers . . .' This English author too does the splits, but now in three directions, not two. Like Benedictus, he puts the whole before the part and begins with a generic definition of suicide—including the element of will ('by his own will')—then concedes to the method-minded convention an allusion to a 'weapon' and finally, as if consciously distancing itself again from that convention, adds 'or with any means the Devil offers'.[14] These examples of method-mindedness remain alone among Penitential texts on suicide, other than those that directly cite Braga or Auxerre.

In canon law, the pre-eminence of the Braga and Auxerre canons ensured that, enshrined as they became by Gratian in the *Corpus iuris canonici*, they would preserve the method-minded formulae throughout and beyond the Middle Ages. The tendency to specify methods would nevertheless persist, in or out of strictly canonical tradition, in apparent independence of those two texts. Thus the theologian Anselm of Laon, early in the twelfth century, would lay down that madmen, like children, are granted salvation from the

[11] Vives, *Concilios visigóticos*, 501. An English translation can be found on p. 185 above.
[12] See p. 253 for the text. [13] See p. 262 for the text. [14] See p. 265 for the text.

sole fact of baptism and added that this was so 'even if they throw themselves into fire or water or kill themselves in some other way'.[15] St Bernard of Clairvaux, referring in a sermon to suicides he has known of, likewise defines them as those 'who have drowned or hanged themselves'.[16] John of Salisbury, criticizing classical suicides in *Policraticus* in the 1150s, referred to Cato and others who, to escape public infamy 'used iron, or hemlock, or other poison'.[17] When confessors' handbooks began to appear at the end of the same century, they joined the tradition, again perhaps influenced by Braga even when they did not quote it. Thus Robert of Flamborough's *Liber Poenitentialis*, written around 1203–13, raises a query about the man 'who kills himself or hangs himself in a noose'—*qui semetipsum occidit aut laqueo se suspendit*—again, like the Penitential of Benedictus Levita, putting the whole and the part together, and in that order—before going on to quote Braga and Auxerre verbatim.[18] Raymond of Peñaforte's *Summa de Poenitentia*, between 1223 and 1238, likewise refers to those who 'have hanged themselves, or thrown themselves from a height, or transfixed themselves with a sword, or by another similar method'.[19] What on earth can Raymond mean, we may ask, by 'by another similar method'? In what way 'similar'? Why cannot Raymond spell out that it is *killers of themselves*, by *any* method, that he is thinking of? It can hardly be a question of euphemism now, when grisly details are actually preferred to the abstract definition. Yet the tradition continued. John of Freiburg, commenting on Raymond's book just before 1300, refers to suicides as those 'who knowingly hang or stab themselves' without, again, offering any general definition of suicide.[20] Hanging has a certain precedence, perhaps, in those authors most influenced by the classical use of *suspensus*. One such was the great canonist Henry of Ostia, 'Hostiensis', writing around 1271 on the question who might be buried in a churchyard. As if it were a popular assumption that such were excluded Hostiensis poses the question 'what of the *suspensus*?' and says (with help from the *Digest*) that if the *suspensus* has repented before death his body can go in the churchyard.[21] Plenty of other

[15] Quoted in O. Lottin, *Psychologie et morale aux xii^e et xiii^e siècles* (Louvain and Gembloux, 1942–60), vol. 5, p. 54, §58, from Anselm of Laon's *Liber Pancresis* (1120–5), 'De naturaliter fatuis'. Cf. Lottin, vol. 6, 479–88.

[16] *Sermo 66 Super Cantica*, §13; in *Opera*, ed. J. Leclercq and others, vol. 2 (Rome, 1958), 187.10: 'qui seipsos aut submerserunt, aut suspendiunt.'

[17] Bk 5, ch. 17; ed. C. C. I. Webb, vol. 1, p. 360.25–7: 'qui ferrum aut cicutam aliudve toxicum praeoccupantes.'

[18] Bk 5, ch. 2, §1; ed. J. J. F. Firth, 211.

[19] Bk 1, ch. 16; edition of Rome, 1603, p. 141: 'puta quia suspenderunt, vel praecipitaverunt, vel gladio seipsos peremerunt, vel alio simili modo.'

[20] John of Freiburg's commentary, printed in the margin of the 1603 edition of the *Summa de Poenitentia*, ibid: 'se suspenderunt scienter, aut perimerunt.'

[21] *Super decretalium*, bk 3, *De sepulturis*; (edition of Paris, 1512), vol. 2, fol. 90^vt: 'Hoc autem quod dixi de quolibet peccatore intelligendum est de peccatore impenitente . . . Quid ergo de suspenso?' On the Roman usage of *suspensus* and similar words see pp. 495–504 above.

examples of these method-minded definitions can be found in the moralists and canonists of the later Middle Ages.[22]

The bulk of surviving medieval secular laws starts later, but when it does, the same method-mindedness is present and in more varied forms. The so-called *Établissments de s. Louis*, compiled soon before 1273, refer to 'the man who hangs himself or drowns himself or the woman who kills herself in any manner'—a sex difference I shall return to.[23] An ordinance from Lille, of about the same date, meanwhile returns to the part-plus-whole Braga formula, repeating it separately for man or woman, thus: 'if a man hangs or drowns or kills himself', and 'if it is a woman who has hanged, or drowned, or killed herself'.[24] Some local statutes miss out the general definition of suicide altogether and name only the methods, like those of the diocesan council of Nîmes in 1284 which allude to 'those who have hanged themselves or killed themselves with a sword [*gladio*]'.[25] The statutes of Bordeaux, on the other hand—of which our earliest version is from the late fourteenth century—are more expansive, confiscating the property of 'whoever strikes himself with a sword, or hangs himself, or throws himself in water or from a tower or from a house or other place . . .' but not, explicitly, of the suicide as such.[26]

Any idea that these secular laws, because later than the corresponding canons, owed this feature to ecclesiastical models, is dispelled when our range of examples is extended. Take Roman law. The main classical Latin expressions for suicide have been listed by the historians of the subject in classical Rome,[27] and one expression commonly used is 'to turn one's hand against oneself', which represents an intermediate position between the method definition of suicide and an abstract one. Other Roman expressions are more abstract, like 'to bring death on oneself'. But there are still traces, in Roman law, of a method-mindedness similar to its medieval successor. One text in the *Digest*, for instance, comparing the theft of a slave to the act of persuading

[22] e.g. Kühnel, 476, quotes circumlocutions for suicide of which most refer merely to the method ('she hanged herself', etc.).

[23] Bk 1, ch. 92; ed. P. Viollet, Société de l'histoire de France, 4 vols; vol. 2 (Paris, 1881), p. 150: 'se eisinc avenoit que aucuns se pandist ou noiast ou occist en aucune [autre] maniére, tuit si meuble seroient au baron. Et de la fame ausinc.' Cf. Bourquelot, 'Recherches', pt 2, 262. Some MSS lack the 'autre'; which (I suggest) may have been added, in others, in a bid to add cohesion to the sentence as a whole.

[24] §§18 and 19; in Roison, *Franchises, lois et coutumes de la ville de Lille*, ed. Brun-Lavainne (Lille and Paris, 1842), 121: 'se home se pent ou noie ou ochist que on doit faire . . .' and [§19] 'Et se chou est femme qui pendue ou noié ou ocise se soit, lois est . . .' Cf. Bourquelot, 'Recherches', pt 2, 265.

[25] G. D. Mansi, *Concilia*, vol. 24 (Venice, 1780), col. 546: 'Item illis qui se ipsos suspenderunt, aut se gladio interfecerunt.' Cf. Bayet, *Le suicide*, 434.

[26] *Livre des coutumes, Archives municipales de Bordeaux*, 5; ed. H. Barchausen (Bordeaux, 1890), 46: 'tot home o fempna qui s'gita o se met en desperacion, cum de renegar sa ley, o se ausy de gladi, o se pen, o se gita en aygua, o sauta de tor, o de maysson, o de autre loc, per sin ausire . . .' Cf. Bayet, *Le suicide*, 438.

[27] Grisé, *Le suicide*, 291–7; Van Hooff, *From Autothanasia to Suicide*, 246–50.

him to suicide, speaks of the latter act as that of one who will 'throw himself from a height or set his hand against himself'.[28] Another text about slaves includes in its definition of a 'bad' slave one who 'does something' by which he might 'withdraw himself from human affairs', for instance, he says, 'by twisting a noose or by drinking poison, or throwing himself from a height, or doing anything else by which he might hope for the death that follows'.[29] Again, what would seem an irrelevant detail is put in the foreground.

These texts were of course known to medieval jurists and duly influenced their phraseology. Thus Peter of Belleperche, envisaging a testator who commits suicide, speaks of him as one who 'hangs himself in a noose or in some manner or other kills himself'.[30] Cino of Pistoia, commenting on the accused prisoner who kills himself, echoes his Roman text in referring to the man as one who 'throws himself from a height, and thus loses his property to the fisc'.[31] The canonist Hostiensis will reel off the Roman texts more or less verbatim, in this respect, like the text about the bad slave who dies 'by twisting a noose or by drinking poison, or throwing himself from a height', and so on.[32] Because the jurists were by profession great quoters it is not always easy to tell how far this definition by method is the effect of their texts and how far of contemporary ways of thought. What is certain is that it clung, so that the juristic encyclopaedist Bertachinus, in the late fifteenth century, can still speak of the suicide in the traditional manner as 'the man who kills himself with a sword or with poison'.[33] What was true of such method-minded phrases in general, furthermore, was true of the more particular Roman use of *suspendere* to imply self-hanging. Although the availability of the abstract term *felonia de se* made most English legists less method-minded in their references to suicide, the breeze of Roman law blew even here towards the end of the medieval period, so that the term *suspendere*, with a suicidal connotation, can be found in a note by the Tudor jurist Fitzherbert, writing in 1512–14 about a suicide case of 1315 which he had read of in the rolls. 'Note,' Fitzherbert writes 'that the goods of those who hang themselves are

[28] *Digest*, bk 47, 2, 36, proem; ed. T. Mommsen (Berlin, 1870), vol. 2, p. 745: 'Qui servo persuasit, ut fugeret, fur non est: nec enim qui alicui malum consilium dedit, furtum facit, non magis quam si ei persuasit, ut se praecipitet aut manus sibi interret: haec enim furti non admittunt actionem.' Cf. Grisé, *Le suicide*, 280.

[29] *Digest*, 21, 1, 23, 3; ed. Mommsen, p. 609: 'Malus servus creditus est, qui aliquid facit, quo magis se rebus humanis extrahat, ut puta laqueum torsit sive medicamentum pro veneno bibit praecipitemve se ex alto miserit aliudve quid fecerit, quo facto speravit mortem perventuram, tanquam non nihil in alium ausurus, qui hoc adversus se ausus est.' Cf. Grisé, *Le suicide*, 278, and n. 32 below.

[30] *Comm. in Codicem* ad 6, 22, 2; ed. cit. (p. 410, n. 34), fol. 274^{r}.

[31] *Comm. in Codicem*, ad 22, 6; ed. cit. (p. 82, n. 73), fol. 364^{r}.

[32] *Super decretalium*, bk 3, *De sepulturis*; ed. cit. (p. 432, n. 21), fol. 90^{rb}.

[33] Bertachinus, *Repertorium* (Venice, 1590), pt 3, fol. 410^{v}.

confiscated.'[34] *We* know, and Fitzherbert knew, that in 1315 the goods of *all* suicides were confiscated irrespective of method. But, no doubt encouraged by his classical exemplars, Fitzherbert remained mesmerized.

In the later Middle Ages we find some jurists, like some moralists, deliberately generalizing their definition by a phrase which tacitly acknowledges the limitations of the tradition it supersedes. To take one example from many, that phrase from Peter of Belleperche ends 'vel quoquomodo se interfecit [by whatever method he kills himself]'. Again, at the end of the fourteenth century Jean Boutillier, a self-conscious modernizer, would dispense with the 'methods' definition altogether, but by a phrase which shows he knew others still used it, referring to one 'who, through despair, puts himself to death by whatever means this may be'.[35] The most tell-tale of these codas is that to the passage quoted just now from the *Établissments de s. Louis*, where the male suicide was defined as 'the man who hangs or drowns himself', the female, as one 'who kills herself in any manner',[36] the disjunction suggesting that an addition has been made in an older law to include the female, and that the addition—because made when the climate of legal thought was changing—has a more sweeping and generic range. Both the equation of women with men, and the greater abstraction in thinking of suicide, fit with all else we know of evolution in thirteenth-century French legal ideas.

While the more sophisticated lawyers were engaged in these refinements the older tradition endured in other circles. The Rügen Custom Book goes as far as to split its section on suicide into separate clauses, distinguishing suicide by method, each main method getting its own prescription: the corpse of the self-hanger is to be dealt with in this way; of the self-stabber, in that; of the self-drowner, in a third.[37] As I suggested in Chapter 1, there may have been forensic reasons for this compartmentalization; but in the background, and combined with these, was a tendency to see suicides by different methods as different kinds of act.

Legal allusions to suicide, then, usually included indications of method. It has been shown that they did not always do so: that some Penitentials, in particular, form noticeable exceptions and that certain late medieval texts modify the method phraseology in various ways and degrees. But the method is nearly always there, and when it is, normally either precedes any generic allusion to suicide or replaces it altogether. How is this to be explained?

[34] A. Fitzherbert, *La Grande Abridgement*, *placitum* 426; edn of London, 1565, fol. 259^{v}: 'Nota quod bona eorum qui se suspendunt confiscantur.'

[35] J. Boutillier, *Somme rurale* (edn of Paris, 1538, fol. 84^{r}).

[36] As in n. 24 above.

[37] *Wendisch-Rügianischer Landgebrauch*, ed. T. H. Gadebusch (1777), titulus 247, §§7–9; pp. 320–1.

Interpretation of the texts

A little of the peculiarity can quickly be explained *away*, as the result of mere copying. Where the Braga and Auxerre formulae were copied out, their verbal idiosyncrasies would have survived naturally, without proving much about the mentality of the copyists. The same applies to Roman law texts with the same feature. It would not prove much, I say; though it would still prove something, for if the peculiarity in question had caused offence it could have been modernized, as happened (for instance) with the twelfth-century interpolations I pointed out in the Braga canon.[38] That the old method phraseology was *not* changed, but more often just developed, shows that the copyists had no problem with the mentality it expressed. In any case, most examples had nothing to do with copying. Examples of method-mindness in allusions to suicide are too various for more than a fraction to be explained away as merely literary. Once this fact is grasped it turns the first explanation upside down. For it means that if the texts of the *Digest* and Germanic councils cannot be the source of the medieval method-mindedness, then all examples of this feature, including the *Digest* and early canons, are more probably mere written deposits of something bigger and older than them all. How much bigger and how much older? This is a difficult question and there are two ways of tackling it.

One way is to inspect the medieval formulae more closely and compare them with what we have learned of actual suicide at the epoch the formulae were used. The formulae in question, from the Braga canon onwards, varied in the number and order of methods of suicide they mentioned. In their ensemble, the number of times each method is mentioned can be counted, and they produce an order of precedence. The most often mentioned method is hanging; then comes iron or sword, then water, jumping from a height, and, in last place, poison. The percentage score of each method is shown by the graph in Figure 1 opposite. The same order and almost the same percentages (with water just ahead of its rival) remain if the methods are weighted, not by mere numbers, but according to the position each occupies in the formulae.

Now did this hierarchy represent current reality, or only current imagination? Let us compare this figure with those of the distribution of methods used by actual medieval suicides, as learned from English[39] and French[40] judicial records. These latter figures were printed in the previous volume, but I repeat them here for easy comparison, in Figure 2. There are slight differences between the two sets of distribution. The most notable is that the judicial

[38] Above, pp. 272–6. [39] *The Violent against Themselves*, 406. [40] Ibid., 409.

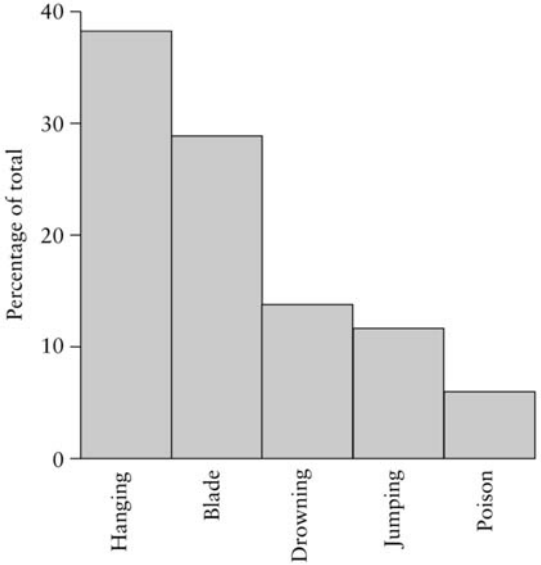


Fig. 1 Methods of suicide in legal formulae

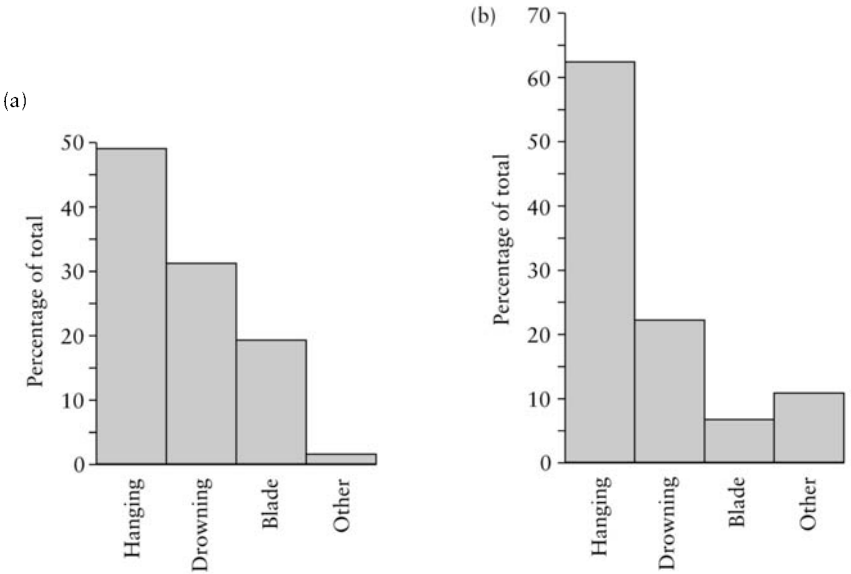


Fig. 2 Methods of suicide in judicial records: (a) England, and (b) France

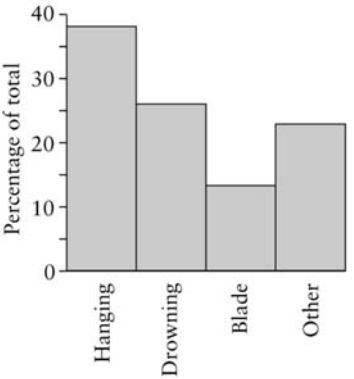


Fig. 3 Methods of suicide in chronicles and religious sources

sources on actual suicide put hanging more markedly ahead (with about half or more of all cases), water in second place (with just under a third of all cases), while knives and other such implements (with under a fifth of all cases) make a poor showing in quantity as well as quality beside the heroic 'iron' and 'sword' of the law codes. Making all allowance for the bias imparted to judicial records by the differing detectability of suicide methods, these differences are just enough to accuse the codes of a consistent deviation. That is, the codes' attachment to iron and the sword diverts their attention from water, a neglect which would be even more marked if religious sources were brought in, whose references to drowning cover more than a quarter of all of cases. Again I reprint the relevant figure from the previous volume, in Figure 3.[41] As often, the evidence of the *miracula* compares well with that of the law codes; and together they side against the legal formulae. Written law, in a word, consistently underrated water.

These deviations must have an explanation. It lies, surely, in the laws' conservatism, a conservatism that went far beyond the mere verbal repetitions of the Braga and Auxerre canons. When the fourteenth-century Bordeaux statutes start their list of methods with the man 'who stabs himself with a sword' they may reflect dark-age or even Roman conditions. They certainly do not tally with those of the fourteenth century.[42] Again, the fact that water comes on the scene in force in late secular statutes may betray the belated discovery, by improved constabularies, that at least a quarter of suicides happened that way. If the deviations in the codes do have significance they illustrate yet again the inertia of the relevant law.

[41] *The Violent against Themselves*, 412. [42] Above, n. 26.

The inertia has earned its emphasis here because I am suggesting that the laws' method-mindedness had a rationale which was, in one way at least, primitive. Whether, in point of mere chronology, this rationale was a spent force by the time the codes were written, or whether (in the alternative) it was still the way people actually thought, is a question I shall address in a moment. What we surely have to agree is that the rationale *had* been a living force.

There is a second way of showing the laws' antiquity, namely language. Let me start by looking at a word which comes in Roman law and in writings influenced by it, *suspendiosus*. The word in primitive Latin must have meant 'the wretch who has been hanged' ('wretch' because the ending *-osus* is pejorative); but at some stage the term was both limited and extended. It came to mean that the man had hanged *himself*, and—by a a distinct development—that the man had *killed* himself by no matter what means.[43] Exactly when in classical times this double change took place is a question difficult to answer, and I shall return to it.[44] All the medievalist needs to concern himself with now—and it is certain—is that the change had long been complete by the European twelfth century, when a commentator on Roman law could define *suspendiosus*, without more ado, as 'the man who hangs himself or in some other way kills himself',[45] and when *suspendium* could be understood (again without further qualification) to mean hanging one*self*.[46] The legislative and judicial sources already considered justify this.[47] Of legislative clauses which mention methods, seven (about half the sample) put hanging first or (in two cases) on its own; while hanging accounts for nearly two-fifths of the aggregated number of methods specified. Judicial records of actual suicides, for their part, endorse the priority with a figure of between half and two-thirds. Hanging both was, and legislators understood it to be, the method most readily associated with suicide; so no wonder lawyers accepted the old word *suspendiosus* as a synonym.

The history of the word *suspendiosus* provides, then, another illustration of a tendency in some early vocabularies to define suicide by the way it was done. That particular word's history is part of a larger one. Expressions for suicide in the languages of the pre-Roman Mediterranean world were the

[43] A. Wacke, 'Der Selbstmord im römischen Recht', *Zeitschrift der Savigny-Stiftung für Rechstgeschichte*, Rom. Abt., 197 (1980), 43, n. 77, limits the meaning of *suspendiosus* to the *self*-hanged because hanging as a form of execution is unmentioned in Roman sources. Other considerations are adduced by A. Vandenbosche, 'Recherches sur le suicide dans le droit romain', *Mélanges H. Grégoire*, vol. 4 (Paris, 1952), 471–516, on pp. 489–90 and Grisé, *Le suicide*, 143, for understanding the word as meaning suicide.

[44] Below, pp. 494–504.

[45] M. Conrat, ed., *Das Florentiner Rechstsbuch* (Berlin, 1882), 55.1–2: 'suspendiosus, id est qui se suspendit vel alias sibi manum iniecit.'

[46] Caesarius of Heisterbach, *Dial. mir.*, dist. 3, ch. 14; ed. Strange, vol. 1, p. 12.

[47] The following rests on the same bases as the figures on pp. 436–8.

subject of another article by that connoisseur of language, David Daube.[48] In Chapter 3, snatches of the Old Testament were quoted which describe suicides, and a glance back at these quotations will confirm that they all tell us the *method*: 'draw your sword and kill me'; 'he hanged himself'; and so on. Even the New Testament suicide, Judas, just 'went and hanged himself', according to Matthew. In the Old, similarly, outside the exceptional Maccabees, it is only the accounts about Abimelech and Samson which speak *in addition* of 'killing' or 'dying' in general terms, that is, apart from the method.[49] Daube, who points these facts out, also explained how in ancient Mediterranean languages generic *verbs* for suicide were slow to emerge, *nouns* slower still; and how, when verbs for suicide did appear they embodied the notion of 'to kill [oneself]' before that of 'to die [voluntarily]'. The reason for these orders of events, he suggests, is that it was suicide *as observed by people who had no thought of committing it* that first brought the verb into existence. An abstract identification of suicide would have followed naturally from an earlier stage of apprehension, in which suicide was conceived as a physical image of a particular act, as in, 'he hanged himself' or 'he stabbed himself.'[50] The earliest language to host this linguistic development was Greek. Hebrew was slow to follow. But even Greek, with its bent for abstraction, when the *verbs* for suicide arrived, still kept an important place for the idea of dying by 'one's own hand',[51] allowing the physical image of the act again to endure, even in the most precociously abstract of vocabularies. Employing this vocabulary, for instance, a Greek poet as late as the second century ad could still portray a lover's threat of suicide as: 'when I have hanged myself or jumped into a well or found some other way of death',[52] much, that is, as if he were living in the European Middle Ages and writing in Latin.

The conception of suicide by its method could encourage, finally, an association also with its instruments, and the material they were made of. While some of the allusions to method I quoted earlier refer directly to method (as in the case of *praecipitium*: falling), others use only a noun in the ablative of the instrument. Examples are *laqueo* (*by* a noose) and *gladio* (*by* a sword), as if the instrument were conceptually fused with the crime it served. Nor just the instrument: also its material. The Braga canon begins its list of the types of suicides to which it applies with those who have died *per ferrum*, 'by iron', recalling a comparable use of the word *metallum* in Roman law to indicate instruments of execution or torture. There is more to say about this attachment of an act to an object, and a little of this 'more' will be said in a moment in connection with pollution. Its significance now goes no further than this,

[48] D. Daube, 'The linguistics of suicide', *Philosophy and Public Affairs*, 1 (1972), 387–437.
[49] Ibid., 384–7. [50] Ibid., 390–9. [51] Ibid., 400–2. [52] Ibid., 401.

that it confirms how conceptions of suicide dwelt 'in the concrete side of events', to return to Auerbach's expression; confirms, that is to say, that medieval conceptions of suicide were embedded, so deeply as to be inextricable, in the visible and tangible objects whose relevant movements constituted, for the senses and memory, the essence of an event.

Dominance of the Event

The preoccupation with methods of suicide was reflected in language, so it is easily palpable in texts. A second feature of legal thinking on the subject, in harmony with the first, is rendered more elusive by the relative faintness of its traces. It is a tendency to see suicide in terms only of a physical, completed fact: of something accomplished (*factum*), a special kind of dead body, as distinct from an event informed by a state of mind. This trait is an important factor in the historical interpretation of the judicial records of suicide: courts only started taking notice at all when there was a dead body, evidence of an act. That factor was taken into account in the search for suicides in Volume I.[53] We look at it now from another angle, the psychological.

The importance of the act

It has been seen that most of the legal phrases about suicide, though significantly not all, add to the idea of self-killing a clause which defines it: 'anyone who kills himself by . . .' or 'who kills himself in any [other] way'. This addition is incongruous. If it is suicide that is the object of the sanction, the methods need not have been mentioned. If it is the methods, then their suicidal purpose is superfluous. This incongruity was born from the coexistence of two sets of ideas, the second slowly gaining ground over the first, among the sophisticated men who wrote down the laws.

At first it seems unrealistic to suppose that a mere method of death, alone, could entail a curse on a dead person's memory. But this was the case even in respect of deaths other than suicide. From the time of Braga into the late Middle Ages we often find, comprised in the ban which denies a corpse access to the cemetery, criminals defined *only* by how they died. A few examples will show what this means. A diocesan synod in Utrecht, in 1293, included in the ban, besides 'any persons who have put themselves to death by hanging themselves with a noose', all those too 'who have been hanged, beheaded, broken on the wheel, or otherwise killed for their crime', as if the method of death is

[53] *The Violent against Themselves*, 125–30.

in the foreground, the crime (if any) behind.[54] An even more method-minded exclusion, extending far beyond suicides, is that of a guild-law of 1382 from roughly the same area which denies burial to 'the hanged, the beheaded, those broken on the wheel, the burned, the drowned, those who have strangled [= hanged] themselves, and non-baptized infants'.[55] Although the more up-to-date canonists had by the late thirteenth century got beyond such method formulae—in order to concentrate on more legalistic disabilities like excommunication—other examples could certainly be found.[56] We also find, in criminal registers, accounts of persons denied cemetery burial through having died in circumstances whose *possibly* dishonourable character seems to have been conferred by a sudden or disfiguring death. Thus in Regensburg in 1411 a workman and his girlfriend were killed by coal-smoke and adjudged unworthy of the cemetery, and thrown in the Danube.[57] In Nuremberg not long afterwards, a clerk who died while burying treasure was, similarly, interred behind the slaughterhouse.[58]

The method of any death whatsoever, not just a death by suicide, was thus important. The late medieval evidence that betrays this attitude also suggests an important fact about it: that it is a vestige of older ideas, already under erosion. This, in turn, gives the method-mindedness of the suicide laws a significance opposite to the one they have at first sight. What was remarkable about them, it reveals, was not, as appears *prima facie*, their allusion to the methods of death, but the opposite, namely their attention to the agent. *Anyone*, in other words, knew that to die by hanging or falling was shameful. What the lawyers bother to emphasize is that to die that way by *suicide* is shameful, for reasons all of its own. It is as if that Braga canon, which looks primitive to us, was in its own day an instrument of moral progress.

Among recommendations of this reading is its continuity with a process of which the evidence is clearer, namely what came after Braga. We saw earlier

[54] Ch. 20; ed. J. Hartzheim, *Concilia Germaniae*, vol. 4 (Cologne, 1761) 18: 'prohibemus, ne aliqui, qui mortem sibi consciverunt [Hartzheim: construxerunt stipulis], laqueo suspendendo; vel qui suspensi, decollati, rotati, vel alias propter suum scelus, interfecti, in Ecclesiis, vel cimiteriis non sepeliantur, nisi de nostra vel nostri officiales fuerit licentia speciali.' Fortified by a list of ancient Latin expressions in Grisé, *Le suicide*, 291–2, I have read 'consciverunt' against Hartzheim and omitted his 'stipulis'.

[55] M. J. Nordewier, *Nederduitsche Regtsoudheden* (Utrecht, 1853), 321: 'suspensi, decollati, rotati, concremati, submersi, et qui se ipsos strangulaverunt . . . infantes non bapitizati . . .'

[56] C. A. Kerin, *The Privation of Christian Burial* (Washington, DC, 1941), 57–8 (cf. above, pp. 42–3). An intermediate example is the diocesan conciliar *acta* of Nîmes in 1284 (quoted above on p. 433), where a method-minded suicide formula is followed, as by addition to an earlier core, by a careful modification in terms of intention. By 'up-to-date canonists' I am thinking especially of Guillaume Durand and Pietro de' Ubaldi.

[57] H. Knapp, *Alt-Regensburgs Gerichtsverfassung* (Berlin, 1914), 182: 'die beide durch kohlendunst getôtet wuden . . . da sie des freythofs nicht würdig waren.' That the worker was married, but not to the *Dirne* in question, may have been material.

[58] H. Knapp, *Das alte Nürnberger Kriminalrecht* (Berlin, 1896), 99.

how the Braga canon underwent glosses and changes.[59] The changes are consistent in character in that they spell out the deliberate, moral aspect of an act of true suicide, shifting the balance of emphasis in the text away from the act, towards the intention. Thus the Auxerre canon, it was shown, put the adverb *voluntarie* ('of his own free will'), twice in one sentence, beside its allusion to the bare act of self-killing, as if stressing the modification. It was also demonstrated that while Braga makes no such reference to intention, the same adverb, *voluntarie*, would be furtively intruded into the text in the eleventh and later centuries. Finally, we saw how, at the end of the same century, the qualification *impoenitentes* ('if they do not repent'), was likewise smuggled into the text as if it had been there from the start, and that later glossators would elaborate these changes, by explaining what *voluntarie* and *impoenitentes* meant in practice.[60]

This textual history was told in Chapter 8, as it stood, as a story of progress. I recall it now in order to read it upside down. In adding these extra clauses, a canon lawyer exerted himself for a purpose: without his additions, the point he was making would not have been understood. Fortunately it is not too difficult to demonstrate this, by taking a close look—to be precise, by taking a *historical* look, as distinct from a canon lawyer's look—at just one of the texts in that history of progress. It is a text in Pope Gregory IX's *Decretals* published in 1234,[61] referring to events which seem to have happened in or near 1205 in the pontificate of Innocent III, to whom it therefore fell to make a decision in the case. Innocent's decision earned inclusion in the *Decretals* because it illustrated the critical importance of intention. For the historian it does the opposite, and deserves our scrutiny for that reason.

In or around 1205, a young woman in a village near Tours had been trying to escape the importunities of a nobleman, who had bothered her for some time. Late one evening, she accidentally encountered some of his henchmen on a bridge. Trying to escape, she fell (the only relevant verb in the decretal is *cadens*) from the bridge into the river below. Bystanders rushed to rescue her, but by the time they got there she was dead. The priest in charge of the local chapel refused her corpse normal burial. No ground or authority for this refusal is mentioned in Innocent's letter, our only source for the story. But no document referred to so far in this chapter should make us surprised at the priest's reaction, for the girl's death had been of an unusual sort, morally ambivalent. She had—to borrow the phraseology of the Braga canon (which

[59] Above, pp. 270–6. [60] For all these references see ibid., nn. 70–80.

[61] *Decretales Gregorii IX*, bk 3, titulus 28, ch. 11; ed. Friedberg, *Corpus iuris canonici*, vol. 2, col. 553. The canonists' heading for the decretal is 'Casualiter mortuus privari non debet ecclesiastica sepultura.' Historically, I am arguing, the decretal proves the strength of the opposite assumption. (A decretal is an authoritative letter by a pope.)

Innocent did not)—*sibi . . . per praecipitium . . . violenter [intulit] mortem.* If it had not been for the dead girl's relations, her only natural allies, that would have been the end of the matter. She would have lacked proper burial and remained unknown to history (or canon law), as many others must have done. But it was now the relations' turn to be importunate. They must have complained to the parish priest, but without effect, and subsequently to other local powers, again in vain; finally have gone to the expense of presenting their case to the exalted, distant authority of the archbishop of Tours. (Parents loved their daughters.) But the archbishop too was reluctant to interfere.

Why all this reluctance? The only explanation can be that the parish priest's original decision reflected community opinion. If the villagers could have produced evidence that the girl had *willingly* killed herself, the archbishop need have wasted no time. He would have confirmed the priest's sentence, leaving the girl's corpse outside the churchyard. The fact that there is no hint of such evidence shows that it cannot have existed. So the archbishop avoided a decision, as if he felt uneasy, as if pulled in two directions at once.

It is only the end of the girl's posthumous fortunes, as usual, that allows us to speed back along the course of the narrative and work out what must have happened at the beginning. For the archbishop of Tours now took the case to *his* superior, and this time the superior happened to be, not a canon lawyer now, but a theologian, and one of exceptionally fine perception. Theologians were the contemporary specialists in moral intention *par excellence*, and unusual in being so: *nullum peccatum nisi contra conscientiam.* The theologian in question was Lothar of Segni, now pope as Innocent III, and he came down squarely for the girl's proper burial, on simple grounds. The fall was an accident (*casu*), Innocent wrote, not deliberate (*non sponte sua*). Why on earth, in that case we may ask, should it have taken a journey not just of twenty miles to an archbishop but of several hundred miles to a pope, to make this obvious distinction, if not because the mere act of falling to one's death, even involuntarily, was generally thought to entail disgrace?

We do not know, beyond reasonable doubt, what actually happened on that bridge. Perhaps no one knew. Such incidents were hard to judge even on the spot, and a pope was hardly well-placed to dispute the account given by the dead girl's family or anyone else. He did not try to. Innocent may have accepted the family's account from a humane complacency. If so, he would not be the only example. (We saw another in the bishop of Lincoln's answer to the Missenden monks, and yet another will come at the end of this chapter.) But that does not lessen the historical significance of the decretal. Still less does it explain one last significant fact about it: the decretal's selection for inclusion in the most influential canonical collection of the century, Gregory IX's *Decretals.* Despite all earlier canonists' glosses, and all adjustments to

the Braga canon, the principle still needed stating unequivocally, and by a pope: causing one's own death involved guilt only if it was *sponte sua*, 'of one's own free will'.

In sum, there must still have been life in the opposite view in 1234, let alone in 1205; nor was it going to vanish just because canonists adjusted old texts to their own sophisticated views, for all that the adjustments present in the texts—the texts that law students pored over—were already busy at their long task of eroding old assumptions. If the Tours case leaves any doubt about the endurance of this confusion, the doubt will, I hope, be dispelled by yet a further group of late medieval documents. Like other documentary categories we have looked at, this one not only teaches a lesson of its own, but to teach it, insists on being interpreted in its own way. For at last, in the late thirteenth century, when pen and ink became cheaper and their use extended, things were written down which had been only spoken before; and these included laws. There is no certainty that all late medieval codifications represent age-old practice (some are known to be new, and that can be guessed of others); but where a notion is implicit in a legal clause we have other grounds to believe primitive, the chances are that some of the law, at least, was age-old, and only comes into the daylight because new circumstances brought it there. That critical reflection will help us look at the texts from yet a third angle.

The unimportance of intention

Many of the laws deny, implicitly or explicitly, any material distinction between suicides done with full deliberation and those attributable to insanity. This was illustrated by early medieval examples, in the unamended Braga canon and in some Penitentials. But the feature endured in late medieval texts, sometimes all the more conspicuously for measures taken to modify it. An example is a canon of a diocesan council in Nîmes, in 1284. It is about persons excluded from 'ecclesiastical burial', and lists heretics, usurers, those who died in tournaments, under major excommunication or interdict, or otherwise in manifest mortal sin. At the end come suicides, defined as follows: 'likewise [church burial is to be refused] to those who have hanged themselves or killed themselves with a sword.'[62] Immediately after this clause, but separate from it, follows a long stipulation to the effect that *all* the above provisions—about heretics, usurers, excommunicates, and everyone else—are to be understood only if the dying person has shown no sign of repentance, for instance,

[62] G. D. Mansi, *Concilia*, vol. 24, col. 546ABi: 'Item illis qui se suspenderunt, aut se gladio interfecerunt. Haec autem intelligenda, & servanda sunt, nisi in morte manifesta signa poenitentiae apparuerant; videlicet . . .' Cf. Bourquelot, 'Recherches', pt 2, 253 (with the wrong date of 1184); Bayet, *Le suicide*, 434.

by sending for a priest. Again the compound structure of this text betrays its history. It is as if its long final stipulation were a late addition, made by the Nîmes draftsmen to an inherited list of cemetery outlaws. Even if that suggestion is wrong, and the stipulation was written at the same time as the other clauses, its separation from them, and its exclusive concentration on the question of repentance, are instructive, since they throw into relief the absence of any phrase in the qualification of self-killing, that it must be intentional. Suicides, whether they repent afterwards or not, are simply 'those who have hanged themselves or killed themselves with a sword'.

If this kind of phrasing was used in ecclesiastical councils we cannot be surprised to meet it regularly also in the many extant French secular customaries, dating from the later Middle Ages. In providing for suicide these customaries too make no distinction of motive except, occasionally, in favour of a 'madman' (as being innocent).[63] That this reflected judicial practice, and was not just a matter of written statutes, we know—at least for France and the more conservative recesses of Italy—from the disapproving testimony of the Renaissance jurists, who insisted, and had to insist, that motive was crucial.[64]

Law at ground-level, therefore, suffered from inertia. All learned lawyers, canon or Roman, were by the late Middle Ages long familiar with the necessary distinctions, but the ground-level customaries kept to the old formulae. Should we call their conservatism positive or negative? Did lawyers, that is to say, really cling to the old principles, or could they simply not be bothered to revise old rules while ignoring their anachronisms in practice? By chance that question can be answered in respect of one small geographical area, which may be representative of more. In it, we find both legislators and judges acting quite deliberately to *exclude* the question of motive.

The area is southern Germany, and the town whose documents alert us to the phenomenon in question is Frankfurt am Main. Frankfurt, like some other late medieval, fast-growing urban mushrooms in that area, had no bishop, so its legal traditions were not enshrined in any episcopal conciliar canons but rather in civic statutes, and these statutes are among the most explicit in saying how a suicide's corpse was to be dealt with. In Frankfurt, the corpse of a suicide was to be taken by the hangman and either burned, or put

[63] The finding of Bayet, *Le suicide*, 446, who also acknowledges as an exception *La très ancienne coutume de Bretagne*, §112; ed. M. Planiol (Rennes, 1896), 153: 'Gienz qui se occient *à leur escient* . . .' [my emphasis].

[64] Joh. Igneus, *Commentaria in tit. Sill., Qui sibi manus*, §21; edn of Lyons and Orleans, 1539, fol. 94[r]. On a text which distinguishes a suicide's motive, Feu comments 'qui textus est singulariter contra communem praxim et judicum observantiam notandus, qui ex quacunque causa se occidentes faciunt suspendere.' Julius Clarus, *Liber quintus receptarum sententiarum*, Questio 68, §37 (edn of Frankfurt, 1613, p. 243) quotes the *Practica* of Jodocus (bk 88, §6) to the effect that 'secundum consuetudinem quisquis seipsum interfecit, ex quacumque occasione et causa hoc evenerit' suffers a certain posthumous penalty, but Clarus says Milan does not follow this custom.

in a barrel and thrown in the river Main.[65] Winds of enlightenment, however—whether from pagan or Christian Rome does not matter—had begun to blow through south German towns, and the burghers' statute accordingly went on to make exception for the most prominent class of innocent suicides: those who could be shown to have lost their reason. If the suicide was of unsound mind, the law continues, the corpse should *not* be burned. The Frankfurt law has all the appearance, up to that point, of a textbook model of the distinction of innocence and guilt.

If only the draftsman had stopped there, we would never have known what a strange conceptual universe he lived in. But by continuing, he opened a window and left it open for historians. The same clause that snatches the insane suicide from the hangman (quite rightly, we murmur) goes on without any pause to insist that his corpse must *still* not be buried normally in the churchyard. It must either (the clause says) be put in a barrel by the dead person's relations and thrown in the river Main or—this is a late-fifteenth-century amendment—be buried in the carrion pit. This was not a mere legal prescription, for we happen to know from late fifteenth-century judicial sources that the differentiation was probably observed, by courts which shared the halfway house mentality of the statute. For instance, in 1486 a Frankfurt man whose wife's suicide had been attributed to insanity was given special permission to throw her body (in its barrel) into the Main with his own hands;[66] while in another comparable Frankfurt case, in 1488, the matter of 'insanity' could be ignored altogether, and full rigour applied to a suicide woman even though she had been adjudged mad.[67]

Recherchez l'anomalie!, to quote once more Jacques Le Goff's guiding principle. The partial character of the Frankfurt concession demonstrates, to a degree matched by little else in our medieval dossier, the nature of the process under examination, since it marks a point of illogicality or fissure between two contradictory modes of thought. The burghers accept that the insane person is not morally responsible, but *still* they punish the corpse. Their concession only acknowledges some sort—did they know what

[65] G. L. Kriegk, *Deutsches Bürgherthum im Mittelalter* (Frankfurt am Main, 1868), 219–20, 549, nn. 186, 188; F. Rau, *Beiträge um Kriminalrecht der freien Reichsstadt Frankfurt am Main* (Diss. Potsdam, 1916), 66–7.

[66] Kriegk, *Deutsches Bürgherthum*, 220.

[67] Ibid., 549, n. 186. The inconsistency of courts in this matter finds further significance from its echo in learned jurisprudence. Even in a section of his *Decretum* dedicated to establishing conscious intention as of the essence of guilt, Gratian still lets slip a sentence expecting penance from a former *furiosus* for a crime committed during madness: *Decretum*, pt 2, Causa 15, quaestio 1, ch. 12; ed. Friedberg, vol. 1, col. 749: 'Si quis insaniens aliquem occiderit, si ad sanam mentem pervenerit, levior penitentia imponenda est.' Like much else in the *Decretum* this was a resonance of Roman law, here a weak one, of a tension Roman jurists had felt even more keenly. See F. Zuccotti, *'Furor haereticorum.' Studi sul trattamento giuridico della follia e sulla persecuzione della eterodossia religiosa nella legislazione del tardo impero Romano*. Pubblicazioni dell'Istituto di Diretto Romano, 26 (Milan, 1992), 311–25.

sort?—of palliation of the dead person's guilt. Or should we not say, not guilt, but pollution? We are in the presence of a man polluted by a physical act, irrespective of the intention.

There is no reason, by the way, at all to think this mentality—this halfway house between caring and not caring about intention—was confined to Frankfurt or indeed to any imperial city. Frankfurt just happens to have left behind exceptionally tell-tale evidence of it in its law code and judicial records. The same pair of clashing assumptions can be found in a sentence of the sophisticated Court of Requests in Paris, in 1423, where an embroiderer, Michelet le Cavalier, had jumped to his death from a window, and the court declared he had been suffering from a 'frenzy' and was therefore not guilty, but still said he should buried 'without solemnity'.[68] The known disingenuousness of sentences of this kind from the Paris Court of Requests—habitually anxious to avoid rendering poor widows destitute and hence giving 'not guilty' verdicts when it could—may make that inconsistent sentence poor evidence of muddled *thinking* by the judges. They may have been leaning over backwards to get a poor family the worst penalties a family was likely to suffer for the suicide of its breadwinner, but hesitated to flout public opinion any further. The sentence nevertheless shows what the court expected the law officers and public to accept; and if the Paris public would accept it, why not any other? There is only one reason to associate this double-think more with the Empire than elsewhere, besides the Frankfurt legislation. It is that as law-codes began to pullulate in Germany after 1500 some of them go on spelling out the same contradiction, as in the Frankfurt law, without seeing anything anomalous. Thus a statute of 1526 in Tirol separates from other self-killings those committed from 'melancholy or illness' ('melancholy' being itself a kind of illness). Heirs of the sick or 'melancholy' suicide might inherit, the others not; but in all cases, well or ill, the body is to be burned or thrown in the river.[69] In Lower Austria in 1514 the non-culpable suicide—defined—can even be followed by burial in consecrated ground but the burial must be 'quiet'.[70] Why quiet, we may ask, if the suicide is non-culpable? The two distinct modes of thought, normally invisible within the maze of puzzling evidence, are once more revealed side by side, in conflict.

Polluted Objects

Pollution has to pollute something. The evidence has allowed us to identify many ideas and customs suggestive of a pollution caused by suicide, but has

[68] *The Violent against Themselves*, 220–1.
[69] O. Bernstein, *Die Bestrafung des Selbstmords*, 14. [70] Ibid., 15.

said less about their rationale. Some of this rationale can be seen by a quick glance back over the evidence arrayed here and in the previous volume. Suicide polluted speech; so it remained unmentioned or was softened by euphemism.[71] It polluted thought; so the suicide's grave was unmarked and his memory forgotten. The body was polluted, and was therefore mutilated and disgraced. The place of the suicide was polluted, so a sacred place like a chapel must be reconsecrated or, like a municipal Council Chamber, avenged by special sanctions.[72] The Germanic threshold ritual described in Chapter 1 was an attempt, in the same spirit, to limit the otherwise costly pollution of a house in which suicide had been committed. Even, finally, the suicide's property was polluted, which is why it had to be either destroyed (whether or not it was directly associated with his suicide), as by 'ravaire'; or, being automatically outlawed by a suicide's intestacy, left to the pillage of confiscation—whose verso side, examples revealed, was a local assumption that a suicide's property was ownerless.[73]

The method-mindedness of suicide statutes, after all this, should leave no room for surprise that the instrument of suicide too was polluted, with an intensity inversely proportional to its size, and by a pollution with two elements. Part of it attached to the instrument of any violent crime. That in England the instrument of felony, a *felonia de se* or any other, should be 'given to God', as *deodand*, expressed the idea that crime stuck to it; and the Crown's success in turning that idea to royal profit by commutating the instrument into money (and God into the Exchequer), only fortifies the interpretion just given to confiscation—as if the crown grew rich by touching what to everyone else was untouchable. We happen to know, through evidence from classical Greece, that the idea implicit here, that the instrument of a crime was itself somehow outlawed, was archaic.[74]

All this applied *a fortiori* when the crime was suicide, making an instrument of suicide doubly polluted, and this fact comes out especially in respect of the noose, which we have seen to have a privileged association with suicide. Evidence for the magical power of a suicide's noose was considered in Chapter 1, where it was also suggested this may have affected the way suicides were cut down.[75] Mentally, like other instruments, the noose of a suicide became associated with his act. St Augustine's aspersion on Judas, 'the traitor perished by a noose; he bequeathed the noose to his like' (*Laqueo traditor periit; laqueum talibus dereliquit*), would become one of the most familiar

[71] *The Violent against Themselves*, 34–8.

[72] The monastic chapel in Missenden, 1393: above, p. 403; the Council Chamber, see above, p. 421, n. 60.

[73] Above, pp. 57–63. [74] R. Parker, *Miasma* (Oxford, 1983), 41–3, 52. See below, p. 512.

[75] pp. 18–23 above; and Baechtold-Stäubli, *Handwörterbuch des deutschen Aberglaubens*, vol. 7, col. 1633; cf. vol. 8, col. 543–4: Stith Thompson, *Motif-Index of Folk Tales*, D 1384.2, E 538.2.

short texts on suicide passed around among canonists and theologians.[76] Similar associations nevertheless attached to other instruments of suicide. A poet could use the ellipsis 'the sword of Dido' to indicate suicide.[77] Two people in a story could kill themselves with the same sword—this being once, at least, emphasized in art, in the 'skewer' effect of Pyramus and Thisbe's sword in a carved capital in the Minster in Basle.[78] As to water, a ninth-century Bavarian miracle tells how a murderer tried to cleanse his conscience by drowning himself in a river, and how the water—being pure by nature—refused the pollution and ejected him. At least, the story bears that interpretation.[79]

There is territory here for the student of medieval mentalities as a whole, and of folkloric beliefs in particular; and we shall visit the territory again, its landmarks instantly recognizable, in considering early Greek, Jewish and Muslim suicide law in the last two chapters in this volume. All we need acknowledge, at this stage, is that many of the medieval European customs and beliefs portrayed earlier make more sense when seen as guards against pollution. True to Mary Douglas's principle, the taboos had a rationale of their own. An act of suicide struck its human milieu as primarily an event, and what left an imprint on the mind of neighbours were its material accoutrements: the method, instrument, and place, all of which were consequently soiled as if by dirt or infection. Corresponding, therefore, with a material interpretation of the deed, indifferent to intention, stood a preoccupation with its material aftermath, rendering hateful everything associated with the deed.

Reactions of this kind are understandable, and still part of human make-up. Today these medieval perceptions would be said to lack a moral dimension, as if this dimension had collapsed on to a symbolism of events and objects. That is because we, today, distinguish the moral core of an act more carefully, and make intention central. This change, between the Middle Ages and the present, is the progress of which the philosophers of history speak, when they describe how the spirit (or mind: Hegel's *Geist* meant both) comes increasingly, over the centuries, to inform human lives and institutions as the outcome of a historical dialectic, played out by social forces.

It is this last factor, the social forces, that still remain in our case to be investigated. I said at the beginning that pollution was defined by two elements, namely its adherence to the material, and its function as a protector of social norms. These last two chapters have explored the former element, the mater-

[76] Cf. Gratian, *Decretum*, pt 2, Causa 15, quaestio 5, ch. 10; ed. Friedberg, *Corpus iuris canonici*, vol. 1, col. 934.

[77] Dante Alighieri, *Rime*, 103 ('Così nel mio parlar'), verse 36.

[78] Knapp, *Selbstmord in der abendländischen Epik*, 143–7, 163. I hope to include an illustration of this capital in *The Mapping of Mental Desolation*.

[79] *The Violent against Themselves*, 296–7.

ial, and it is time to turn to the second, and put to it another simple question. The question will be where, in practice rather than theory, did the human pressure for the imposition of the suicide laws come from? Who was it who was in favour of the dragging, exhumation, and the rest, and who against? We stand at another frontier, within the anthropological wonderland the journey has lain through in this chapter: the frontier—now a hazy one but not without its need for frontier formalities and changes of language—between the psychology, and the politics, of law.

14

The Community as Judge

The question now to be answered is where, in practice, pressure for the imposition of the suicide laws came from. Though simple, the question can be split in two, negative and positive, each part to be handled on its own in each of the chapter's two sections. The first, negative part runs: granted there was a law banning suicides from normal rites, and granted that laws seldom go unbent or broken, among what sort of person, if any, were its breakers and benders to be found? The second part will be the same question back-to-front. That is, among what sort of people do we find the law's main keepers and defenders? In one word—or two, one for each of the two sections—who did not, and who did, want the suicide laws enforced?

Breakers and Benders of the Law

Since breaking and bending law are distinct exercises, institutions react differently to them. The main breakers, or would-be breakers, were usually the suicide's natural allies, and (incidentally) those who would suffer most directly from his posthumous disgrace and impoverishment, namely families. So I shall start with those, and go on to distinguish a total of three other categories afterwards.

Families

Some families may have succeeded in hiding the fact of suicide. Then we would not know. But others tried and failed, which means we do know. English judicial records, with their two-tier character between coroner and Eyre, are especially sensitive to these endeavours. We possess at least four examples from English rolls. In one, from near Bamburgh in Northumberland in an Eyre roll of 1256, the son of a self-hanged woman cut her down, and laid her body on a bed before announcing the death as if she had died nat-

urally, so that the body got buried in the churchyard.[1] The Devon Eyre of 1281–2, similarly, recorded a villein who had thrown his suicide wife's body in the river and ended by having to clear himself of a charge of murder. The same roll tells, thirdly, how the widow of a beadle who had killed himself paid a chaplain to bury the body as normal.[2] A fourth example is from an Eyre in Cambridgeshire in 1299. It exposed a conspiracy, in which both the local coroner and a suicide's widower were involved, to rewrite the first record of a suicide so that it was reduced to 'death by misadventure'.[3]

That all four manoeuvres got into the records, let us not forget, was due to the perpetrators' bad luck as well as to the sharpness of the English judicial administration. Records from elsewhere, though intrinsically less responsive, confirm the interest of families in avoiding the law. In France, the interest is palpable in some documented cases,[4] and we catch it from time to time elsewhere too, for instance in a case from Ghent in 1414, when 'after the body had lain on the ground for five or six days [under the gallows] the dead man's friends came to the abbot of St Peters [in Ghent] and petitioned him, for God's sake, that they might bury the body; to which petition consent was given.'[5]

Clergy

That particular abbot was himself dispensing from the law if not bending it, on behalf of the family. Abbots, as a particular kind of clergy, will deserve treatment on their own in a moment. But a word needs to be said first about clergy in general, who form a second discernible category among lawbreakers or -benders, besides the family, and are actually more conspicuous in the records. To talk of clergy as bending law raises a delicate question, best tackled at once. Canon law allowed its judges a measure of discretion, since it was well understood that there were matters on which the written law spoke with an uncertain voice. The uncertainty had been especially significant in the age of Braga and Theodore, indeed until the canonistic renaissance of the Hildebrandine age, which culminated in Gratian's *Decretum*, a renaissance rendered necessary for precisely this reason, that on many subjects—suicide, we saw, was one—judges had more than one written authority to choose from. The greater canonists of the time just after Gregory VII (†1085), and most prominently Ivo of Chartres (†1115) and Gratian (*c.*1140), conceived their work as a means of making a 'harmony of discordant canons',

[1] *The Violent against Themselves*, 175. [2] Ibid., 175–7. [3] Ibid., 177.
[4] For instance, the case of Philippe Braque, *The Violent against Themselves*, 197–202.
[5] J. B. Cannaert, *Bydragen tot de kennis van het oude strafrecht in Vlaenderen verrykt met vele tot dusverre onuitgegevene stukken*, 3rd edn (Ghent, 1835), 282–4.

rather as theologians were to do with their own texts in the wake of Abelard's *Sic et non*. And one doubt Ivo and Gratian sought to resolve was between the respective claims of rigour and mercy in the interpretation of any law. Whatever these reconcilers achieved, a residuum of the same doubt nevertheless remained, and had to remain, since law cannot take account of all situations; and that meant some degree of judicial discretion was ineradicable, and rendered more robust, furthermore, after Gratian's time, by the importation of Roman civil law. The Roman concept of 'equity'—abstract justice, standing behind and above positive law—only needed furtive Christianization to allow a mercifully minded judge to bend canon law without any suggestion he was breaking it.[6] The abbot in Ghent was doubtless doing just that.

But what of the ordinary parish clergy? Careful scrutiny of the familiar records reveals they quite often broke the law. Had not the Braga canon in 561 only been passed because 'some priests' had been flouting the law 'through ignorance'?[7] The eighth-century Northumbrian Penitential, close kin to the *Judicia Theodori*, half admits the same when it says 'we'—meaning the clergy who contributed to it—had 'dared' to pray for certain categories of suicide:[8] 'daring' only coming into it because they knew there was something unofficial, at least, about their prayers. Continental councils in the following two or three centuries, nettled at signs of priestly laxity in this regard, clearly agreed.[9]

When we reach the more copious records of the English Eyre and coroners' rolls, in the thirteenth century, only modest detective work is needed to see that some parish priests buried suicides: since the royal judges noted the irregularity, if it was discovered, and disapproved. An examination of cases in the Register at the end of *The Violent against Themselves* produces no fewer than fourteen instances of a suicide's being buried in defiance of the law of the land. That must mean burial in the churchyard. The cases include that Devon chaplain in the Eyre of 1281–2, who (the record says) was paid 30 shillings to bury the beadle. That implies that money may, at times, have helped loosen the springs of perilous indulgence; but we should not be too cynical. For all we know of the other thirteen instances is that the body was buried, occasionally—as at Luker in Northumberland in the 1256 Assize—after what must have been clear priestly connivance with the family.[10] We are

[6] C. Lefebvre, *Les pouvoirs du juge en droit canonique* (Paris, 1938), 7–10, 164–72; S. G. Kuttner, *Harmony from Dissonance* (Latrobe, Pa, 1960), esp. 23–30.

[7] Text on p. 183 above. [8] Above, p. 253. [9] Above, p. 263.

[10] *The Violent against Themselves*, 433–53. Improper burial will be found recorded for the sessions of Berks, 1261; Bucks, 1272; Devon, 1244; Devon, 1281–2 (the beadle); Kent, 1255 (×3); Northants, 1285; Northumberland, 1256 (Luker); the Oxford coroners, 1322; Salop, 1256 (×3); and Surrey, 1263.

not told if the body was exhumed, let alone whether the priest received money for his irregularity. These last two points, fortunately, are clarified by two letters in an early fifteenth-century Lincoln episcopal register. In both, a bishop orders the local priest to exhume a suicide's body, in terms sufficiently circumstantial to make their silence noticeable on any question of bribes: both letters suggest that the priest had taken for the burial no more than his due fee, if that.[11]

For all the niceties of canon law, these examples give an impression that some priests did what they thought best privately, if they thought no one would notice. Higher up the hierarchy, bishops had another device for bending the law, a device native to humane persons in authority in all generations: the tendentious reading of evidence, of a kind frequently illustrated in the judicial evidence quoted in the previous volume—for instance, in Letters of Remission granted by the Paris Parlement. This device would allow bishops even to license priests to bury suicides, in the manner of that abbot in Ghent, if they saw fit. In the nature of things the memory of such dispensations must often be lost, but we do happen to possess—again partly through the quality of records from the Paris Parlement—details of a case which may speak for many others, which I therefore give in all its epic length. It occurred in Abbeville on the Somme, in 1404. A burgher had committed suicide. To save his body from execution (dragging and hanging) it had been placed in the big town church of St Jacques, but the town's mayor and échevins sent 'sergents et officiers' to remove the body for its due execution. The priest thereupon forbade the police officers to approach nearer than fifteen yards from the church. All the candles inside were extinguished so that no one could see from outside what was being done inside (conceivably with the idea of burying the body under the church floor). The excluded police meanwhile formed a circle round the church to stop anyone from inside bringing the body out. The stand-off lasted some days, quite long enough for the body to start smelling, to the offence of churchgoers entering the building. Rather than yield, the mayor and échevins insisted the body be put in a barrel of caustic soda until the law, as they saw it, was kept to the letter. The bishop of Amiens, meanwhile, closely interested in events from the start, excommunicated the mayor and échevins for trying to violate sanctuary and hindering the proper burial of a man whom the clergy and parish had judged worthy of it. The mayor and échevins thereupon played their trump card, appealing to the Parlement in Paris. Since St Louis's time Parlement had insisted on hearing excommunication appeals, and now it bluntly told the bishop to lift the excommunication or lose his temporalities. No doubt the bishop yielded, though not much

[11] The letters are quoted below, p. 468 and nn. 45–6.

execution could have been done on the rotting body by this time, and we are not told what happened to it.[12]

Religious orders

Indulgent local clergy apart, clerical law-bending could be institutionalized, or nearly so, by some religious orders. Their members died like anyone else and it had long been normal for orders to have their own cemeteries. These formed privileged lacunae in the burial-rights of local churches, and the rules about who could and could not be buried were not always applied in the same way in these cemeteries as outside. Urban growth and demographic movement helped create a market always shifting. One result was that parish priests, who needed burial-fees as part of their income, had to be on guard lest their own customers got buried elsewhere. One late medieval effect of the market was the emergence of urban confraternities, which aimed to get decent burial for their members and some of which, from charitable motives, got executed criminals buried without too much disgrace.[13] Religious orders were sensitive to the same demand. We read in Guillaume Durand's *Speculum judiciale*, the well–used canon-law handbook written around 1280 or 1290, a formula for a parish priest who wished to complain to his bishop that another authority has been burying his parishioners. Not surprisingly, religious orders are mentioned.

There are two in particular: the Knights Templar and Knights Hospitaller,[14] both clearly leaders in this regard. As a Provençal bishop, Guillaume Durand may have been especially conscious of their strength, since their houses stretched particularly thickly across southern France. But unease about their burial privileges was general, and felt even in northern Europe. Late twelfth-century Oxford, for instance, had witnessed a fierce disputation about the military orders' burial privileges, and at the turn of the thirteenth century they are mentioned in indignant letters by Innocent III.[15] The problem

[12] J. Bica, *La justice criminelle de l'échevinage d'Abbeville au moyen âge. 1184–1516*. Bibliothèque de la Société d'Histoire du Droit des Pays Flamands, Picards et Wallon, 4 (Lille, 1930), 82.

[13] J. Henderson, *Piety and Charity in Late Medieval Florence* (Oxford, 1994), 156–63, with references.

[14] Bk 4, particulum 3, §1; edn of Basle, 1574, vol. 2, p. 401: 'Conqueror de hospitalariis, qui parochianos meos recipiunt ad sepulturam . . . etiam si nihil aliud petatur, nam ibi rector ille nihil aliud petiit'; and ibid., §5 [402a]: 'Coram, etc. propono contra tales Templarios, sive Hospitalarios, quod cum Laurentius parochianus meus apud eos elegisset sepulturam, eisque centum legare voluisset, ipsi, ut ecclesia parochialis portione canonica fraudaretur, eum induxerunt, ut illa centum pro equis et armis legaret in subisidium Terrae sanctae, vel pro ornamentis ecclesiae . . .'

[15] J. A. Brundage, 'A twelfth-century Oxford disputation concerning the privileges of the Knights Hospitallers', *Mediaeval Studies*, 24 (1962), 153–60; Innocent III, *Registrum*, bk 10, no. 121, To the Master of the Temple, Thurs. 13 Sep. 1207; *Pat. lat.*, 215, 1217C–8D.

was that the orders had been allowed the cemeteries to bury members of their own community, but were now being opened to outsiders: first, to elderly lay sympathizers who wished to 'join' the order at the cost of a small annual subscription, and, second, by way of this mechanism, to a multitude of what Innocent III could only list as 'adulterers, blatant usurers and other criminals under ecclesiastical ban'.[16] The pope complained that these, and a variety of other categories of excommunicate, were not only being buried in consecrated ground when they had no right to be, but even (this after the complaint from the head of the local diocesan clergy against the Hospitallers) that the graveyards were overflowing so that they were burying people in *un*consecrated ground. These and certain other abuses, in the same connection, were perpetrated 'to the scandal of Christendom and the disgrace of your order'.[17]

None of the sources I have mentioned so far includes suicides among these smuggled burials. Knowing what we do about reticence on suicides we might imagine that Innocent may have had them in mind in referring to 'other criminals under ecclesiastical ban', as to 'certain other abuses'. But speculation is not needed, since independent sources spell out that missing detail. The Annals of the Dunstable Benedictines, at about the time Guillaume Durand was writing, twice confirm that suicides were among those buried by (in this case) the local Hospitallers. An entry for 1274 refers to a Dunstable woman who had deliberately drowned herself in a well 'and because we will not bury her, the Hospitallers took legal proceedings against us. We came to terms with them because we feared their privileges.'[18] In 1283 it was the turn of a Dunstable serf, who had likewise drowned himself in a well, 'and when he had been seen by the coroners he was thrown into a ditch outside the town; but the Hospitallers took him out and buried him in a [or the] cemetery.'[19]

[16] Ibid., 1218B: 'quicunque, duobus vel tribus denariis annuis collatis eisdem, se in eorum fraternitatem contulerint, carere de iure nequeant ecclesiastica sepultura, etiamsi fuerint interdicti; ac per hoc adulteri, usurarii manifesti, et alii criminosi supposititi ecclesiastico interdicto, ex hujusmodi insolentia in eorum coemeteriis quasi fideles et catholici tumulantur; et ita ipsi a diabolo captivati, fidelium animas captivare non desinunt; cum eas quas mortuas sciunt, vivificare nituntur.'

[17] Innocent III to the Hospitallers of Marseilles, Wed., 4 Dec. 1202; in J.-H. Albanès, *Gallia Christiana Novissima. Marseille* (Valence, 1899), no. 1123, cols 704–5: 'vos in terra non benedicta presumitis mortuorum corpora sepelire, quasdam abusiones alias exercentes in totius christianitatis opprobrium, et religionis vestrae contemptum.' This and further documentation on the disputes, especially in southern France, is in D. Selwood, 'Knights of the Cloister. Templars and Hospitallers in Central-Southern Occitania *c.*1100–*c.*1300'. D.Phil. thesis, Oxford, 1997, pp. 142–3.

[18] *Annales de Dunstaplia*, ad annum 1274; in *Annales monastici*, ed. H. R. Luard, Rolls Series (London, 1866), 260: 'quia nolumus eam admittere ad sepulturam, Hospitalarii nos implacitaverunt. Composuimus cum eis, quia timuimus eorum privilegia.'

[19] Ibid., ad annum 1283; pp. 197–8: 'Et postquam visus est a coronatoribus, projectus est in fovea extra villam; sed Hospitalarii eum inde extraxerunt, et in coemiterio condiderunt.'

The historian learns all this through the jealousy of a conservative abbey jurisdiction, of a kind which by the fifteenth century had lost ground, though not without adding their contribution to the forces which destroyed the Templars *en bloc*, in 1314. The 'abuse' nevertheless survived among the Hospitallers, and it next surfaces in a complaint made, this time, appropriately, from the assembled English parish clergy in 1461. In a general convocation of the province of Canterbury in that year, the lower clergy included among their Articles of Reform the question of the Hospitallers' usurpation of parish priests' functions, usurpations which include that the Hospitallers 'take burial services for excommunicates of this sort [probably meaning those killed in tournaments] or for *others who kill themselves, as they have got into the way of doing from time to time* [my italics].'[20]

Charitable activity towards the laity was central to the functions of the Hospitallers from the beginning (as their name implies) so it would be wrong to take sides with the parish clergy and see the knights' burial of proscripts as only an abuse, done for money. It was partly a question of community, and exclusion from it—in ways I shall explain in a moment. Exclusion from a parish graveyard was exclusion from a parish community, a community bound by unspoken, age-old rules; and one reason a religious order could receive suicides was that it obeyed a principle of community more explicit, and with charitable interventions built into it, so they could afford an act of pity towards an outcast of this kind, with or without money.

This hypothesis gains force in the presence of hints, here and there, that other religious orders may have shown the same independence. In 1314, among accusations aired by the Westminster chronicler against the Dominicans in connection with the latter's General Chapter in London in that year, was that the friars had given prayers and full church burial to some of their own brethren who had killed themselves (killed themselves, the chronicler adds 'to the prejudice of the king and kingdom of the English'). The chronicler says the friars had concealed these and other suspect deaths from the coroner, and carefully disguised them as natural by play-acting with dressed-up dummies. The story may be thought too good to be true (or too bad). Even if it *were* true, the alleged burials fell far short of the public service to suicides attributed to the Hospitallers. However the account is judged, it shows some

[20] *Registrum Thome Bourgchier, Cantuarensis archiepiscopi A.D. 1454–1486*, ed. F. R. H. Du Boulay, Canterbury and York Society, 54 (Oxford, 1957), 91: 'Item, quod fratres Jerusalem in suis capellis vel ecclesiis per suos capellanos subditis aliorum ordinariorum sacramentum eucaristie vel matrimonii non ministrent infuturum, nec per eorum tolleranciam et conniven-ciam ministrari permittant, sub pena juris, sicut hactenus ministrari fecerunt, nec excommuni-catos hujiusmodi seu alios seipsos occidentes sacre sepulture tradant, sicut aliquando fieri consuevit per eosdem.' Whether by *hujusmodi* the clergy intended to limit the application of its complaint to suicides outside the Hospitallers' proper jurisdiction is unclear. It was perhaps meant to be.

people, at least, believed that the Order of Preachers was ready to snap its fingers at suicide laws, sacred as well as secular.[21]

The friars' alleged burial of some of their own number raises an even subtler question, about law-breaking by religious orders. Miracle stories about suicide (full suicide, not just attempts) sometimes imply, as a tacit moral, that the earnest and prolonged prayers of a saintly Benedictine abbot could save the soul of one of his own monks who had committed suicide. That was true of Notker of St Gall, whose prayers bore fruit for his protégé, Wolo, a monk of St Gall who had in all probability thrown himself to his death from the abbey bell-tower.[22] It was equally true of St Hugh of Cluny. Hugh learned by supernatural means that a certain Cluniac monk, known to have hanged himself, had been excluded for this reason from the Cluniac community in Heaven, and hence could not be put in the abbey churchyard. Hugh's earnest prayer obtained a reversal of the heavenly exclusion, with the consequence that the suicide's body could, after all, go in the abbey churchyard.[23]

To these episodes involving Notker and Hugh, already related in the previous volume (because they concerned fairly certain suicides), it is possible we should add a third, whose interest lies in what it reveals about group psychology. This one concerns Fulda, in Hesse, and was reported in the *Book of Visions* written by Otloh of St Emmeram in Regensburg *c.*1060, who gave his account from 'what I have learned from certain monks of that monastery', while he says of the date only that it had happened 'once [*quondam*]'.[24] The story ran that one of the monks, who served the others at meals, had at the end of one busy day, after devotions, gone to wash his hands in one of the aqueducts flowing between the refectory and the latrines. 'Leaning over incautiously, as can happen when one is tired', he fell in, was quickly swept by the current into an underground channel, and drowned. At first no one knew what had happened to him, but after a few days the dead monk's body was discovered. It had got stuck against a water-filter (*retinaculum occultum*) lower down in the system. The corpse was taken out, honourably buried 'with all compassion and due public prayer', and the alms normally made on behalf of dead monks were made as usual.

One monk objected. He was the Cellarer: that is, a close colleague of the server who had died. For a few days the Cellarer bore the situation sulkily (*indevoto animo*). Then he put his foot down, refused consent to the almsgiving, and declared the dead monk 'should not be allowed communion with the

[21] *Flores historiarum*, ad annum 1314; ed. H. R. Luard. Rolls Series (London, 1890), vol. 3, 162–3.

[22] *The Violent against Themselves*, 340–3. [23] Ibid., 343–4.

[24] *Liber visionum*, ch. 16 [*Pat. lat.*, 146, 571D–2C]. Date and author: H. Schauwecker, *Otloh von St Emmeram* (Munich, 1965).

other monks because he was guilty of his own death by throwing himself into the water'. As the monks were leaving their dormitory for the night office the Cellarer was standing alone with his lamp, when he suddenly saw the figure of the drowned monk approaching. The apparition spoke: 'put your lantern down for a moment, and stay while I have a word with you.' The ghost proceeded to castigate the Cellarer for his attitude and drove the lesson home by tying the Cellarer to a pillar and giving him a sound flogging, 'for your own penance and as a warning to others'.

What, we may ask, had the Cellarer done wrong? Once again the historian has to read this account differently from the clientele for whom it was written; and observe, first, that neither Otloh nor anyone else could have known for sure whether the dead monk had drowned intentionally or not. Otloh's authorial reconstruction of the accident, which has the monk falling in 'incautiously, as can happen when one is tired', can have had no empirical authority from the event itself. But nor could the Cellarer have known. He may have judged as he did—that the server had thrown himself in intentionally—either because he was acting as his own Sherlock Holmes and had rationally sized up the risks of that particular aqueduct and judged it prohibitively unlikely anyone could fall in by accident; or—the alternatives are not mutually exclusive but are conceptually distinct—his reaction could have been one of 'pollution', stigmatizing any sudden death and especially one by drowning. We, for our part, cannot know just what happened to the Cellarer on that painful night, but what we can do is reflect on the words attributed to the ghost. The dead monk did not tell the Cellarer *how* he had died. His words (as reported in Otloh's account) were: 'What business is it of yours, I ask you, to decide how God has made his judgement in my case? God has done with me as he wished, and that has not been as you imagine.' It looks, in summary, as if the group of monks who had made the original judgement in the case had guessed—they knew the aqueduct as well as the Cellarer did—that it *may* have been an accident, and given their dead brother the benefit of the doubt. The Cellarer had appealed but the community as a whole (which the vision served as highest Court of Appeal) did not uphold the appeal. This was not, then, a case of praying a man out of damnation as had happened with the prayers of Notker and Hugh, but of judging things in such a way that the man did not get damned in the first place. Or they hoped so. The reference to God's judgement smacks of honest doubt, and the monastery as a whole was resolved to give the dead man the benefit of it.

While the prayers of some monks, and judgements of others, might lead to the suspension of the rigour of canon law, yet other *miracula* from this Benedictine milieu tell of a suicide's being restored to life in breach this time of

natural law, not canon. Two examples were told in the previous volume. The miracles of St Mary the Virgin of Rocamadour, recorded by a monk of that house, told of the wife of a knight who, faithful to the Virgin, was restored to life by the Virgin's favour.[25] In the most celebrated case of all, that of the young male pilgrim to Santiago restored to life by St James and the Virgin in tandem, it was the same St Hugh of Cluny who gave his invaluable seal of approval to the story and set it on its prodigious literary career.[26] It was breaches of natural law that these *miracula* were meant to illustrate; it was not their business to discredit the system of church authority. But they are not unconnected to the discretion which, as we saw earlier, the ruler of a religious house enjoyed not only about whom he prayed for, but also who went into the abbey cemetery. That abbot of St Peter's in Ghent allowed burial to a suicide's body out of 'pity' for the family. That was in 1414, a time when the Cluny and Rocamadour stories were widely disseminated, but not generated. By now their job was increasingly done by laws, including laws about an abbot's discretion; and it is likely that such miracle stories were still repeated to support, as they had been first told in order to legalize, that kind of dispensation from legal rigour.

Here, then, was a medieval version of the Stoic doctrine of the special divine command. It will be recalled that even those philosophers least indulgent to suicide—not excluding St Augustine—permitted those suicides committed when God gave special authorization. The difference here, for the medieval religious superiors I have mentioned, was that the divine licence was one not to commit suicide, but posthumously to excuse or overlook it. The moral territory of these superiors, with their immunities, marched on that of less privileged clergy, in and out of religious orders. Both kinds of clergy, then, can be found braving this or that authority—sometimes this *and* that authority—to smuggle a suicide through to a decent burial.

Officers of the law

Besides families, some clergy, and some religious orders, one final group of proven law-breakers consisted of some—again, only some—people whose job it was to *keep* the law. Coroners, we know, had to be chosen from in or near their jurisdictions, if only so that they could get to the scene of a death on time, and their choice from within a local community exposed them to the pressures of fraternization. Just now we recalled a particularly glaring case from Cambridgeshire in 1299. But the Eyre rolls quite often suggest that coroners could be soft on suicide cases, which therefore had—more often than the

[25] *The Violent against Themselves*, 272–4. [26] Ibid., 278–86.

opposite—to be recalled to the full judicial rigour by the itinerant judges of the Eyre. One variant on this theme was that a borough bailiff should appoint *himself* as coroner, to sweep a suicide away from outsiders' knowledge. This happened in Newcastle upon Tyne in 1293 or just before. Two wards were heavily fined for conspiring with their bailiff, and providing a jury, to adjudge as an accidental drowning the suicide of a neighbour's wife, found in a well. The Eyre challenged the whole lot of them and found just enough local testimony to prove its point. Again, we would not know of the case if they had succeeded. The bailiff went to goal.[27]

Evidence of French prévôts and baillis is too sparse, and conditions too different, to promise comparable derelictions by officers there. But the abbey jurisdictions of the Paris area, whose registers survive, make the point sufficiently. An illuminating example is one from the Ste Geneviève register, in 1288. A man had killed himself and the abbey justiciar had omitted to 'drag' the body, only hanged it. The ever vigilant Prévôt of Paris nearby complained to the king of this mark of the abbey's negligence. The abbey, nervous for its jurisdiction, hastened to make amends by dragging an effigy of the late Robert, whose body had by then decomposed.[28] Competition between jurisdictions kept officers up to the mark, who might otherwise have let matters slip.

Records of this kind of law-breaker are in their nature few. It was otherwise with mere law-*benders*, who are nevertheless hard to identify for a different reason, namely that they usually *were* the law. The cases reviewed in *The Violent against Themselves* demonstrated this in a wide range of jurisdictions, and we can do best by drawing on them again here. The English judicial rolls show that a verdict of insanity, on which everything hung, might be arbitrary. A slight irregularity is noticeable also in the measure to which 'insanity' was attributed to suicides of the two sexes, suggesting the law was being marginally 'bent' for women: there was room for chivalry. How much the same applied with coroners' verdicts of *infortunium* is the stubbornest of all riddles of suicide sources in every period, but in so far as it did, the riddle illustrates, on a wider scale, the same coroner–family alliance as is shown clearly (if rarely) when coroners are caught cheating. The Letters of Remission from the French Parlement bring a clarity of their own onto this area. In each Letter, the allies of an alleged suicide had appealed for remission of the penalties, which in every case was granted. That full tally does not by itself show the Parlement judges always bent the law, for unsuccessful appeals would not appear in any Letter. But the Letters' unusual degree of detail performs that task instead.

[27] PRO JUST/1/653 m 30d (Northumberland Eyre, 1293).

[28] L. Tanon, *Histoire des justices des anciennes églises et communautés monastiques de Paris* (Paris, 1883), 37.

The narrative usually shows that the grounds of remission, whether illness or insanity, were being interpreted generously.

Churchmen regularly represented half the judicial bench of the French Parlement, so it is no surprise that, even outside that context, clergy in high office can also be found among official benders of the law, as those in lower stations were among its less official breakers. Law-bending could be achieved without breach, by what I called earlier a tendentious reading of evidence. The adjective may or may not be too strong, but two episcopal decisions will illustrate it. At Missenden, in the case of 1297 quoted in the last chapter, a bishop of Lincoln found a reason for not reconsecrating an antechapel allegedly polluted by a suicide. More important, Innocent III, in the Tours case also quoted earlier, judged for the girl who had fallen from a bridge, despite the improbability of his knowing the details. Equally significant is that Innocent's letter was the first canon on suicide to enter the *Corpus iuris canonici* since those dark-age authorities for the 'curse'. The change is worth noting. Then, in 561, canon law was defending the curse. Now, in 1205 or 1206, a decretal was limiting its effect. Whether Innocent can literally be said to have bent law is another matter, since it depends how the law is conceived, and how much he knew of the facts. What counts is that Innocent threw in his weight against its conservative interpretation and that his great-nephew, Gregory IX, who picked out the letter to put in his *Decretals*, did the same.

Rescripts and decretals apart, there will have been numberless occasions when a judge, his discretion more or less finely tuned, said a suicide could be buried as normal. Bishops normally had this power. It can be spelt out in statutes, like those passed in two synods in Utrecht in 1295 and 1310.[29] But even when it was not spelt out, it was understood. Hence a judicious bequest to a needy bishop might activate his authority to secure burial and a Mass for a suicide. The Nuremberg chronicler records, for the year 1478, that the body of a schoolmaster who had killed himself was *not* burned, the schoolmaster having 'given the bishop 4 gilders, to be buried in St Martin's at Bamberg'.[30]

[29] J. Hartzheim, ed., *Concilia Germaniae*, vol. 4 (Cologne, 1761), 18 [Diocesan synod of Utrecht, 1293, statute 20]: 'Item, prohibemus, ne aliqui, qui mortem sibi consciverunt [Hartzheim: construxerunt stipulis], laqueo suspendendo; vel qui suspensi . . . [etc.] . . . in Ecclesiis, vel cimiteriis non sepeliantur, nisi de nostra vel nostri officialis fuerit licentia speciali.' Ibid., p. 72; [Diocesan synod of Utrecht, 1310, statute 33]: 'Item prohibemus sub poena excommunicationis, ne aliqui, qui mortem sibi consciverunt, se ipsos laqueo suspendendo, vel qui suspensi . . . [etc.] . . . in Eclesiis [sic] vel Cimiteriis sepeliantur, nisi de nostra seu Officiarii nostri licentia speciali.'

[30] C. Hegel, ed., *Die Chroniken der deutschen Städte*, vol. 10 [= Nürnberg, vol. 4] (Leipzig, 1872), p. 352; '17 Feb. 1478. In dem jar da erstach sich mit willen selber ot Sulmaister von Nurmberg auf Pabenberger weg. man verprent in icht. man sprach, er het dem pischof 4 gld. geben, daz man in grub zu Sant Mertain zu Pabenperg. und het im hie ain opfer und kain sibent, und darnach starb sie rechtz tods an Petri Pauli.' A *sibent* was the second Mass after a burial, held on the seventh day after a death.

Nor is there reason to think this a unique case, still less because it was a power accorded also to some secular judges. The Paris Masters of Requests did the same, for example, in the case of Isabel Tronart, who was certainly a suicide. But we find the same from much lowlier judges, like an English coroner, or a French or German urban magistrate, who will take to himself the decision whether or not a suicide should be buried in the churchyard, as if his right to do so was not in question.[31] This laicization of the power to bury was perhaps strongest in Italy. The fifteenth-century canonist Pietro de' Ubaldi—who as a member of the most distinguished legal family in Italy must be assumed to have been well-versed in legal custom from his youth—reserved to the Prince, not to any bishop as such, the right to say whether or not an executed criminal might be buried in a churchyard with due prayers.[32] Pietro also averred it a general custom—in Italy—that such churchyard outcasts were quite commonly buried in the tomb of their ancestors or in a church of their choice[33]—again envisaging family authorities, not bishops, as having the requisite power. Pietro's custom might explain why there had been no problem, two centuries earlier, about the burial of the suspect suicides Henry of Hohenstaufen and Ezzelino da Romano (the latter not just a suicide but an unbelieving *desperatus* into the bargain).[34] The same custom would certainly lend credit to two burials of suicides in early Renaissance literary romances, one in *La Chastellaine de Vergi*, one in Boccaccio's *Decameron*,[35] in both of which characters commit suicide after crises of passion, both, according to these much-read writers, getting honourable burial. On this detail, at least, it was romance, not the letter of the law, that lay closer to reality.

Champions of the Law

Over against the breakers and benders, and pulling in the other direction, were the champions of the law's full rigour. These champions fall broadly into three categories, and again I shall identify them separately.

[31] e.g. London, PRO, JUST 2/191 m6d (cf. R. F. Hunnisett, *The Medieval Coroner* (Cambridge, 1961), 34–5); for the Abbeville échevins, see above, pp. 455–6; *Schöffen*: G. Kisch, *Leipziger Schöffenspruchsammlung* (Leipzig, 1919), 178, no. 205: 'das ir auf kein kirchhof . . . begraben last.'

[32] *De canonica episcopali et parrochiali*, ch. 14, §3, in *Tractatus tractatuum*, vol. 15, pt 2 [= vol. 22] (Venice, 1584), fol. 240^{v} [listing those refused ecclesiastical burial, a long list which nevertheless makes no mention of suicides]: 'Item damnatis ad mortem . . . qui non debent sepeliri sine auctoritate principis.'

[33] Ibid., continuing: 'consuetudo tamen habet quod sepeliantur in sepultura suorum maiorum, vel in ecclesia in qua elegerit sepeliri, vel in campis, vel etiam in viis publicis.'

[34] *The Violent against Themselves*, 50–3, 53–5.

[35] *La chastellaine de Vergi*, lines 936–8; ed. F. Whitehead, 2nd edn (Manchester, 1951), 24: 'Li dus enterrer l'endemain / fist les amanz en un sarqueu, / et la duchoise en autre leu.' (The duchess, thus buried 'in another place' was wicked but had *not* committed suicide). Boccaccio, *Decameron*, Day 4, §9.

Clergy (again)

One was, in a complicated sense, also the Church. I hope by now it comes as no surprise to learn that 'the Church' in the Middle Ages was not a monolith, identical in all times and situations. In practice it was big and various enough to pull in more than one direction at once. Take the Braga clause again. It proves that some priests were burying suicides 'through ignorance', but simultaneously that the bishops at the Council were keen to put the priests right. The fact that the clause endured in the canon law that guided every student of the subject, right to the end of the Middle Ages, may explain the relative absence of churchmen—*qua* churchmen, that is, rather than justiciars—among conspicuous legal rigorists. Clerics did not need to defend the Braga law, simply because everyone knew it, and one consequence is that when priests do enter the records they enter as exceptions to that rule in the guise of law-breakers and law-benders, not as enforcers. Let us add, also as modifiers—like Ivo of Chartres, Gratian, Innocent III, Gregory IX, John of Freiburg, and the others who glossed and redrafted the original canon: all of these being leading spirits, once the intellectual renaissance had begun *c.*1100, in the painstaking process of moral and psychological definition that we call scholasticism. The process would eventually modify all law, on suicide and everything else, from the inside, and the ecclesiastics who modified, bent, or even broke the suicide law were in that respect, after the eleventh century, quite as typical of the educated Church as those who championed it.

On all these grounds, it must be significant that in our whole dossier of evidence the only case *after* the year 1000 of churchmen as positive champions of the suicide law, in their role as churchmen, is from a legally conservative margin of Christendom: Silesia, in eastern Germany, where developments were late. The document in question is carefully dated to the Friday of Easter week (7 April) 1385, and may just conceivably be placed in or near Breslau. A man had hanged himself. The Schöffen (the German equivalent of échevins) and councillors have sent to the ecclesiastical court to ask if the man should be buried, and where, and how, and what should be done with him.[36] The head of the ecclesiastical court, the Official, has consulted with academic lawyers ('den meystern des rechtin') and now answers:

[36] J. E. Boehme, *Diplomatische Beyträge zur Untersuchung der schlesischen Rechte und Geschichte*, vol. 2, pt 2 (Berlin, 1775) [being pt 6 of the whole work], p. 150: 'In der Jorezal unsers hirren geburt MIII^{c} LXXXV Jore am freytage noch dem ostirtage irhinck sich eynir selbir an eynen strangk de santen dy scheppin und rotmanne czu dem officiali des geystlichin gerichtis froginde ab man den begraben sulle unde wo unde wye unde was man mit en thun sulle. Hiruff wart her eyne mit den meystern des rechtin und santen dese antwort also das man en nicht begrabin sulle yn keyne trewge adir herte erde sundir man sal en werffin yn eynen sumph adir bruchtecht wer andirs mit em thete der were in dem banne umb das her unrecht gethon hatte alzo vollbrochte man is an Im Sundir man warff en yn eyn bruchecht.' Cf. J. Grimm, *Deutsche Rechtsalterthümer*, 4th edn, vol. 2 (Leipzig, 1899), 327.

that the man should not be buried in any grave or in solid earth but should be flung into a marsh or ravine, and that anyone who did otherwise with him would be subject to excommunication as having acted illegally. So this special sentence was carried out and the man's body was thrown into a ravine.

The historian is here in the position of being able to detect a specific zone of ignorance in both town leaders and of the local ecclesiastical Official. All of them were meant to know the law, but they must have been sufficiently unfamiliar with suicide not to know what to do, so they had to turn to academic lawyers. The latter may have had Gratian in their bookcase, and could have found the Braga canon there. Indirectly, the case throws light on the possible genesis of customs in other towns.

Zealous and jealous judges

Churchmen, as churchmen, were the first category among champions of the suicide law. The roles of the other two make less demand on subtle explanations. One is that of some judges, or holders of criminal jurisdiction; not, as we saw earlier, French Masters of Requests, nor all bishops, nor all coroners; but some of these last, and other categories. The most obvious class were English royal justices, who were zealous for suicide verdicts and for the money of anyone suspected of trying to spirit it away. These judges responded with alacrity to the vigour of crown authority. That is not only well known, but is one probable message of the peaks in judicial records of suicide in the reigns of Edward I and Richard II.[37] This may not help directly to locate the roots of legal materialism, since English judicial enthusiasm for the law had its own financial and political motives. But such judicial jealousy remains itself a force for conservatism, since the zealous champion of a court does not pause to question the law it administers. This fact stands in even starker relief in France, in the Paris abbeys whose criminal registers betray a fear of seeming soft to the neighbouring prévôt. Other French seigneurial justice, when rarely glimpsed at work, is likewise conservative and had this additional motive for being so. Even without that motive it was usually conservative enough. The case of Emmelina la Baronne, in 1326, is an illustration. She was fished out of a well in Rheims, repented of having thrown herself in, and had sacraments before she died. Parlement was ready to say it was all an accident. It was the archbishop's official, for all Emmelina's pious end, who pushed for suicide and forfeiture—acting, there, as a perfectly typical High Justiciar.[38]

[37] *The Violent against Themselves*, fig. 1, p. 126. [38] Ibid., 191–2.

The community

There was a third category of rigorist. It is in this respect the most significant that, since it had no jurisdiction to defend, its clamour for the law was not alloyed by the same power-politics that moved jealous judges. The category in question is a hidden presence behind all the more conspicuous parties in the sources—family, coroner, and judges—and although (or because) it is by nature nameless I shall call it the community. That word can be taken at many levels. At each of them, in an appropriate way, the community's sense of itself helps determine legal behaviour. This can be illustrated most easily in respect of graveyards and the question who could be buried in them. Pope Leo I had written 'we may not communicate with those people dead with whom we have not communicated when they lived.'[39] Leo's rule found its way into the *Corpus iuris canonici* and became a founding principle for the governing of churchyards.[40] Leo had originally said it to reinforce the penalty of the bishops' excommunication. But it struck a chord with local communities, more than ready to understand it as meaning that social ostracisim went beyond death. We keep getting little hints of this way of thinking. For instance, a German vernacular poem of the thirteenth century represents a man dying *desperatus*, that is, without Christian faith, and foreseeing how he will be buried in the open fields because he must be 'deprived of Christian *community* [my italics]'.[41] The concept naturally extended to suicides, who for burial purposes, as those lists of cemetery outlaws made clear, counted as honorary excommunicates, whose exclusion from the churchyard symbolized the soul's exclusion from the blessed *qua* community. This is the unmistakable meaning of the story in Gilo's *Life* of St Hugh of Cluny, of the suicide monk's exclusion from Cluny's graveyard *because* it had been learned (supernaturally) that his soul was excluded from the community of Cluniac monks in Heaven; so that when St Hugh's prayers had got the latter exclusion rescinded, the body could go into the graveyard.[42]

We should not be surprised, therefore, to find the principle of community interest operating in a rough-and-ready form in the practice of suicide law

[39] Leo I, *Epist.* 167; *Pat. lat.*, 54, 1205C–6A: 'Nos autem quibus viventibus non communicavimus, mortuis communicare non possumus.'

[40] *Decretalium Gregorii IX*, bk 3, titulus 28 (*De sepulturis*), ch. 28; ed. Friedberg, vol. 2, col. 553: '(Innocent III) institutum . . . ut quibus non communicavimus vivis non communicemus defunctis.' Further fortunes: C. M. Power, *The Blessing of Cemeteries: An Historical Synopsis and Commentary*. Catholic University of America, Canon Law Studies, 185 (Washington, DC, 1943), 43–4.

[41] Quoted by L. Kretzenbacher, 'Zur *Desperatio* im mittelhochdeutschen', in H. Fromm and others, eds, *Verbum und Signum . . . Fs. F. Ohly* (Munich, 1975), vol. 2, pp. 299–310, on p. 307, from the *Vorauer Novelle*, lines 566–9: 'Wan er verzaget was töt gelegen / an kristenlichem glouben; / des muoste man in berouben / kristenlicher gemeine.'

[42] Gilo, *Vita s. Hugonis Cluniacensis*, ch. 7; *Pat. lat.*, 159, 913D–14B. Cf. above, p. 459.

quite apart from the question of burials. The community I am envisaging consisted of (say) the 500 people, more or less, living nearest the suicide, who would have known the dead person by sight and the place of his death, and would incidentally expect to be buried in the local cemetery, with their relations. Groups of this kind were the hidden foundation of all legal systems in practice. Even in places in late medieval Europe with the most 'top-down' criminal procedures, based on royal rights or inquisitional procedure, courts largely depended on some local cooperation. (Even the heresy inquisition learned this, with discomfort, in south-western France.)[43] Suicide law was no exception. However royal or seigneurial the law was in theory, it depended on locals. A moment ago I quoted a case from Bamburgh in Northumberland, recorded in 1256. The relevant assize roll accuses the suicide woman's son of trying to persuade 'their neighbours [*vicinis suis*]' that the death was natural.[44] The son had already persuaded some of the neighbours including, apparently, the coroner, and the woman's corpse was safely buried in the cemetery. How in that case, we may ask, did the royal judge ever get to hear of it? The record bears only one reading. One or more of the neighbours must have acted as a 'mole', and *gratis*. The scrupulous accounts of the Eyre roll include no sum paid to an informer, and Eyres were almost universally unpopular. Yet a neighbour had changed sides, this once, to make sure a suicide did not pass unreproved. Here was another sort of jealousy, not for jurisdiction now, but for justice of a kind. Suicide must not go unpunished.

That is the message of one case, clear from the record. Others could tell the same story. Another register of a bishop of Lincoln, this time for 1413, tells of a spinster who had killed herself and was excluded from cemetery burial by what the register calls 'the violent protest of many people'; and it was this anonymous protest, not the initiative of any functionary, which prompted the bishop and his sequestrator to press the local priest to observe the law strictly. The priest, on his own, had clearly preferred to ignore the fact of suicide altogether (and, as I said earlier in referring to the same register, probably for no money).[45] The same register also tells of another suicide, in 1417, brought to the bishop's notice again by 'the strong protest of many people [*multorum ad nos gravis querela*]'. Once more the priest on the spot had done nothing, and

[43] The lesson of (among other studies) Y. Dossat, *Les crises de l'inquisition toulousaine au xiii^e Siècle (1233–1273)* (Bordeaux, 1959).

[44] Above, pp. 452–3.

[45] M. Archer, ed., *The Register of Bishop Repingdon, 1405–19*, vol. 2 (Lincoln, 1963), 375 (year 1413): 'Sacrorum canonum *attestacione* [attestationibus] reperimus diffinitum quod hii qui voluntarie *aut* per ferrum sive venenum aut [vel] suspendum [sic] quomodolibet sibimet ipsis mortem inferunt Christiana ca[r]ere debeant sepultura . . . Sane multorum ad nos [quod dolenter referimus] gravis querela deduxit quod quedam *Mariona Westode dum vixit parochiana de Haxhey* . . . [Clarissa uxor dum vixit Roberti Sprot de Hanneburgh] nostre diocesis spiritu diabolico seducta . . .' Cf. next note.

the bishop, moved by protest from 'many' neighbours, told him to enforce the law rigorously.[46]

The Lincoln diocese is well-documented in this particular, but what these documents describe must have been far from exceptional. Another revealing case comes from Normandy, in 1412. A Rouen clerk who had killed himself was buried normally, the bishop of Rouen's administrator having been 'persuaded by the dead man's friends' to arrange things that way. The clamour this time came not from the gravedigger and priest who buried the body, but from the Rouen cathedral chapter—not always a place where a bishop would first look for friends—and from 'the parishioners'. The body was exhumed and moved to non-consecrated ground.[47] Yet another, even more explicit example, contemporary with those last three, is from Zürich in 1417.[48] The suicide here was that *of* a priest, and it was the chapter which arranged for their fellow-cleric's normal burial. They were able to get so far because cathedral chapters, in Zürich as in Rouen, were well-born and accustomed to doing things their own way. But when an entire community was solid on the other side, even they had to give way. The mayor of Zürich led a deputation of protest and explained, with the meticulous politeness appropriate to his listeners' rank, that 'our *fellow-citizens and the whole region* [again my italics] are protesting', in the belief, the mayor said, that the wrongful burial of a suicide had caused the recent bad weather and ruined the harvest. The cathedral chapter had no choice, so the priest was dug up and taken out of the churchyard. A further gloss can be added. Since churchyards were not normally guarded, there was no guarantee that *if* the chapter had refused to exhume the body, their refusal would have been respected. Strange things could happen at night, and when a community was unanimous a nocturnal raid on a churchyard to dig up a body and remove it would have been an easy exercise, so it would have been imprudent of the Zürich canon to refuse the townsmen's request. This time it is a case from Schwanheim in Franconia that throws light on this reasoning. When *licensing* the cemetery burial of a suicide there, in 1491, the clerical authorities warned that no one 'was to do anything against the dead man' on pain of a clerical ban[49]—as if wakeful village navvies were known,

[46] Ibid., vol. 3 (Lincoln, 1982), §337 [1417]. The text is identical to that in the previous example except for the substitution of the words in square brackets for those between asterisks.

[47] Bayet, *Le Suicide*, 471. The Rouen chapter appears to have been on the other side in the case cited by Johannes Igneus, *Comm. in tit. Sillan., cit.* §78 [fol. 99^{v}]: 'obtulit se casus in quodam canonico insignis maioris ecclesiae, qui se non metu criminis, sed pudore aeris alieni laqueo suspendit . . . Illi a concanonicis mortis genus ignorantibus in ipso templo inhumatus, demum detecta mortis forma exhumatus est, et prophanae sepulturae traditus.'

[48] M. Schär, *Seelennöte der Untertanen* (Zürich, 1985), 47; the case was also recorded by E. Osenbrüggen, *Studien zur deutschen und schweizerischen Rechtsgeschichte* (Schaffhausen, 1868), 339: 'unser eidgenossen und gemein land dar uf schryen.'

[49] G. L. Kriegk, *Deutsches Burgherthum* (Frankfurt am Main, 1868), 220.

from experience around the land, to have their own ways of enforcing the suicide laws.

Other examples of the same social geometry have already been rehearsed in connection with the way bodies were disposed of, in Chapter 1 of this volume. Not only do all examples point the same way. None points the other. The dossier never, that is to say, shows the local community, outside the suicide's own immediate family and allies, as pleading with a judge for a relaxation of severity. This impression may be negative, and from a dossier which cannot cover more than a fraction of all medieval suicides. But it finds a measure of corroboration from one of those exceptions that prove the rule, this time because it is post-medieval. By 1552 the rapacity and effectiveness of English royal justice had reached a point where it *could* unite a suicide's friends against the crown. That means we can now get a case of a group of town burghers, with support from the townsmen, maintaining that the death of one of their number was not a suicide—and failing against a crown *un*supported by local quislings. By illustrating what could happen in 1552, the episode highlights the absence of medieval analogues.[50]

For all such contortions the basic relationship of judges and communities endured. A village, with the cursed suicide and his immediate family in its hollow centre, faced a judiciary which it might or might not invoke to its aid and which might or might not fulfil expectations, by punishing the suicide and hence purging its evil influence. What is constant is the role of the community as collective judge. A recent study of the functioning of ecclesiastical sanctuary has illustrated very well how a community could thus act. A criminal who got sanctuary from royal justice, Dr Gervase Rosser has shown, had in effect appealed to judgement by the population among whom he lived. The defendant who had shut himself in a church had to emerge at some time, and it was the local community which decided, on the merits of the case, on what terms he should be allowed out, the community acting here as a collective court of appeal.[51] Again, it would be the same community, with its associated magnetic fields, which would in the sixteenth century produce the witch trials. The historian of Tudor suicide, Dr Simon Stevenson, has perceptively compared the social forces at work in both sorts of trial, of witches and of suicides, and finds them in this respect similar, that a local jury's verdict of suicide could become just as much 'an instrument of aggression' as a charge of witchcraft, for use 'against a particular individual and his family'.[52]

[50] J. Miller and K. H. Rogers, 'The strange death of Edward Langford', *Wiltshire Archaeological and Natural History Magazine*, 62 (1967), 103–9.

[51] G. Rosser, 'Sanctuary and social negotiation in medieval England', in J. Blair and B. Golding, eds, *The Cloister and the World: Essays for Barbara Harvey* (Oxford, 1996), 57–79.

[52] S. Stevenson, 'Social and economic contributions to the pattern of "suicide" in south-east England, 1530–1590', *Continuity and Change*, 2 (2) (1987), 248.

Stevenson's analysis of Tudor village politics helps us, as it has done elsewhere, to interpret medieval documents. If Tudor witches, then also suicides in the preceding centuries, could be judged on criteria born within the local collective.

Whether the same goes for one last category of the law's champions is a harder question. It involves ghosts.

Did suicides become ghosts?

A pollution culture is commonly also a ghost culture. The two types of thought feed on the same social matrix, namely a face-to-face society, communicating by word of mouth and sharing one environment over a long time. Ghosts are most at home where one member of such a community can say to another (not least to the young) '*That* was where so-and-so saw the ghost of old so-and-so . . .' There is another reason why ghosts thrive in a pollution culture, this time to do with the way truths are perceived. A society which 'lives in the concrete side of events'—to repeat Auerbach's phrase—will tend to see ghosts, not because ghosts themselves are concrete (most kinds are not), but because, however etherial a ghost may be, it remains more concrete than what it represents, namely a soul, pure spirit. St Augustine pooh-poohed belief in ghosts for this reason. The souls of the dead, he insisted, were out of space and time, so it was pure fantasy to think they themselves walked around and could be seen and heard.[53] But even Augustine had heard stories inexplicable by that principle, so he had to find some way of making sense of them, and did so with theories about demons, angels, and dreams—all of which could make dead people *seem* to appear. Whatever cohesion his theories on these lines may have achieved, Augustine's fastidiousness did not survive to the Middle Ages, at least, not at full strength. This was not least because his admirer, Gregory the Great—here as elsewhere keen to Christianize pagan forms of expression—told edifying stories of dead people who returned to tell the living about the afterlife: the last book of Gregory's much-copied *Dialogues*, in particular, peeled off in this way a top layer of ancient pagan beliefs in ghosts, gave it a more efficacious baptism than perhaps he had intended, and thereby provided a model for a kind of story destined after the millennium to be standard fare in chronicles, *miracula* and *exempla*. Few in the twelfth century, for instance, could have failed to know the story of the two companions, *so* recently had it happened (whatever the generation it was told in), and *so* well-authenticated (albeit by a witness of inconstant identity). The two companions had sworn that whichever died first would return to tell the

[53] The premiss of his work *De cura pro mortuis gerenda*. Cf. its discussion in F. van der Meer, *Augustine the Bishop*, trans. B. Battershaw and G. R. Lamb (London, 1961), 532–6.

other and say how he was faring, and did. It would have been reckless to deny that these things happened.[54]

But the question now is whether they happened to suicides in particular; Did suicides reappear to mortals, because of their suicide or indeed for any other reason? Recent authors to have written authoritatively on medieval ghosts take it as understood that suicides were among them,[55] but the evidence is not as abundant as they suppose. Whatever the significance of this absence may be, it is worth taking into account. The first type of evidence to take into account is the Gregorian, Christianized type of ghost story, where spirits come back from the dead, usually to warn. There, the certain suicide does not appear. His ostracism was complete. In none of these Christianized stories, that is to say, is it a suicide who returns to say what has happened to him, or not directly. The suicide was damned, after all, so why should any living person need reminding of that? It may be said that Otloh of St Emmeram's *miraculum* about the drowned monk of Fulda, mentioned a moment ago, is an exception, but in that story the monk who reappeared was only *thought* to be a suicide, wrongly, and the very purpose of the monk's reappearance was to assert the wrongness of that belief (or at least its undemonstrability). If he had really been a suicide, the profile of this literature suggests, we would not have wished to hear about him—and probably would not have been allowed to.[56]

Below this Christianized genre, however, were layers of old pagan belief which Gregory and his imitators had never transmuted into Christian form. It was in these layers that the real ghosts flourished—corpses which got up at night and haunted the living. So the question should be put again down at this level: did ghosts of *this* kind include suicides? They had done so in the past. The philosopher Porphyry, we recall, living in the third century and drawing on experience between Italy and Greece, took it as an accepted fact that the

[54] A full account of this legend, and of its Gregorian background, is in A. E. Schönbach, 'Studien zur Erzählungsliteratur des Mittelalters, 1: Die Reuner Relationen', *Sitzungsberichte der kaiserliche-königliche Akademie der Wissenschaften*. Phil.-hist. Klasse, 138 (1898), fasc. 5, pp. 1–138.

[55] J.-C. Schmitt, *Les revenants. Les vivants et les morts dans la société médiévale*. Bibliothèque des Histoires (Paris, 1994); C. Lecouteux, *Fantômes et revenants au Moyen Age*, 2nd edn (Paris, 1996). See also the useful sections in K. Thomas, *Religion and the Decline of Magic* (London, 1971), ch. 19, §1, pp. 702–18; and J. Delumeau, *La peur en occident (xiv^e–xviii^e siècles)* (Paris, 1978), ch. 2, §1, pp. 103–19. Except Lecouteux, all these authors index their references to suicide, and in Lecouteux's book references to suicide will be found on pp. 21, 27 (a picture from Stuttgart, Cod. poet. et philol. 2, fol. 65^r (of Lucretia?)); 28, 30–1, 45, 141, 162, 165. Only the references to laws on p. 28 allude to positive medieval evidence of a belief in suicide ghosts, whose absence from the collections mentioned on his pp. 111–23 is conspicuous. The suicide ghosts in Dieselhorst, 'Nürnberg', 62–3 (nn. 27–34, p. 173) can likewise be traced back only to post-medieval sources.

[56] Otloh of St Emmeram, *Liber visionum*, ch. 16; *Pat. lat.*, 146, 571D–6C.

ghosts of suicides lingered round their homes or the place where they had died.[57] More will be said later on beliefs of this kind in pagan antiquity. It is the mere fact of suicide ghosts at this period that should be noted now. The same goes for post-medieval centuries. Readers with access to Baechtold-Stäubli's big *Dictionary of Germanic Superstition*, and to Stith Thompson's *Motif-Index of Folk Tales* can find there scores of references to post-medieval ghost stories with suicides in them.[58] One, peculiar in vividness but not in type, occurred in Breslau in 1591, where the widow of a a wealthy shoemaker had had him buried with honour although she knew he had killed himself. The truth was at first only suspected by a few, but came out gradually in the course of the six winter months, through hauntings, which grew gradually more deafening until no one could sleep at night and labourers arrived at work tired. Finally the widow yielded to universal pressure and the corpse was exhumed, found to have tell-tale supernatural marks on it which proved the suicide, and was duly beheaded and chopped up by the hangman, the pieces being burned and then thrown in the River Oder so that no one could collect the ashes.[59] Accounts comparable to this, concerning suicide ghosts, are relatively common in the sixteenth century and later.

The Middle Ages were 'middle', however, because they lay between the ancient and modern periods, and the medieval evidence deserves scrutiny in its own right. Let me consider first the direct evidence, then the indirect, and finally assess the lesson of both. As for direct evidence, strictly medieval in date, of suicide ghosts, there is next to none. All that has entered the relevant literature is one version, in one manuscript, of an exorcism formula. More strictly it is a formula for blessing the salt-water used in exorcisms, found in a manuscript from the late twelfth or early thirteenth century. The formula recommends the words the priest should address to the salt-water:

> may you drive away every shade, every satan, all the diabolic machinations of *biothanati* or those who wander, whether by invocation of magic art, or the spells of enchanters, or dragons, or of birds or of vipers.[60]

[57] Above, p. 150.

[58] Baechtold-Stäubli, *Handwörterbuch*, esp. vol. 2, 857–8; vol. 6, 1550–2; and vol. 7, 1627–33; Stith Thompson, *Motif-Index of Folk Tales*, rev. edn, 6 vols. (Copenhagen and Bloomington, Ind., 1955–8), esp. under 'Suicide' and 'Corpse'. For a less lexicographical treatment: McDonald and Murphy, *Sleepless Souls*, 42, 46–8, 212, 352–3.

[59] R. Kühnau, *Schlesische Sagen*. Schlesiens volkstümliche Überlieferungen, 3–6 (Leipzig and Berlin, 1910–13), no. 174 (vol. 1, p. 162).

[60] *Pat. lat.*, 138, 1048C: 'sed expellas omnem umbram, omnem satanam, et omnes machinationes diabolicas spirituum immundorum sive biothanatorum, sive errantium, sive ex invocatione magicae artis, sive praecantatorum argumenta, sive draconum, et volucrum et viperarum, quia imperat et tibi Jesus Christus . . .' Printed from MS Vind. th. 277, among *Monumenta liturgica* in *Pat. lat.*, 138, 1039–50. Cf. Schmitt, *Revenants*, 44.

Everything hangs on what that word *biothanatus* means. It is a document in itself. So let us take this occasion to see what the word teaches and what, in consequence, it may mean in the formula just quoted.

Biothanati

Biothanatus in Latin represented a late Greek neologism, *biothanatos*, its two parts, *bios*, 'life', and *thanatos*, 'dead', making it an oxymoron: 'alive-dead'. What that contradiction might mean grows clearer in the light of the word's parentage. *Biothanatos* was the child of a word well-attested in classical Greek, *biaiothanatos*, which literally meant 'violently dying', from *biaios*, 'violent'. As students already of the prehistory of morals we have no excuse for surprise that the classical Greek word covered, without distinction, both suicide and other violent deaths (like goring by a bull). A suicidal preference is nevertheless already present even in the word's post-classical Greek context. At latest by the third century ad the word entered Latin (exchanging an 'e' for the second 'i' to become *biaeothanatos*).[61] In Latin its suicidal meaning gained more ground, fourth-century usage of it mainly meaning suicides.[62] Meanwhile the derivative oxymoron *biothanatos* had entered both Greek and Latin, its suicidal connotation now clearer still. To the question why this change should have happened there are two answers, in combination: a shift in moral climate against suicide, both in and out of the ever-spreading new religion; and, second, the use of a slightly bemusing term—the oxymoron—to denote an event whose attraction for euphemism we have learned from a wide range of sources and periods.[63] Thus John Cassian, in early fifth-century Latin, can use the word for suicide as if anyone would understand it immediately that way: for instance, of Judas' death, and of a death we can be fairly sure *was* suicide.[64] Other fourth- and fifth-century texts share the same focus[65] and in the eighth century an Anglo-Saxon gloss on the word *biothanatus* in a work by Aldhelm of Malmesbury will give *self-bona*, 'self-killer', with no ambiguity—though it has to be said, in that instance, that the context of the Latin word in Aldhelm was such as to leave the translator no choice.[66]

[61] Tertullian, *De anima*, ch. 57; ed. A. Gerlo, *Corp. Christ., Ser. lat.*, vol. 2 (2) (Turnhout, 1954), 865 (lines 2 and 16).

[62] Liddell and Scott, *A Greek-English Lexicon*, 9th edn (Oxford, 1940), 814.

[63] Cf. *The Violent against Themselves*, 34–40.

[64] Cassian, *Institutes*, bk 7, ch. 14, §2; ed. M. Petschenig, *Corp. Script. Eccles. Lat.*, 17 (Vienna, 1888), 138.16–17: 'Judas vitam ipsam communi exitu finire non meruit eamque biothanati morte conclusit'; *Conlationes*, bk 2, 'De discretione', ch. 5; ed. M. Petschenig, *Corp. Script. Eccles. Lat.*, 13 (Vienna, 1886), 45.22.

[65] *Thesaurus Linguae Latinae*, vol. 2 (Leipzig, 1900–6), col. 1999.

[66] R. E. Latham, *Dictionary of Medieval Latin from British Sources*, fasc. 1 (London, 1975), 200. The sentence for which *self-bona* provides a gloss uses the term *biothanatus* unequivocally

This old ambivalence could linger. We learn this from two passages in the *Ecclesiastical History* of Orderic Vitalis, the Norman monastic historian who wrote in the early twelfth century. One quotes the 'curse' clause of a charter giving property to Orderic's own monastery, whose donor says violators of his gift will be damned 'with the reprobate and *biothanati*'.[67] Since accidental death was not, as suicide was, intrinsically sinful, *biothanatus* there must mean suicide, we might think; otherwise *biothanati* would not be damned with the reprobate. But before accepting this interpretation we should consider a second passage. For the year 1100, Orderic tells of the death of William Rufus, killed by an arrow while hunting in the New Forest.[68] The king had led a life of ostentatious contempt for the Church's rules and ministrations, and there was doubt about how he should be buried. The 'clergy and monks' of nearby Winchester (to quote Orderic), together with its 'poorer citizens', got the king's corpse brought unceremoniously out of the forest and buried in the churchyard of Winchester's Old Minster, but the 'ecclesiastical doctors and prelates' objected ('dared' to object, as Orderic puts it), saying such a man should not have ecclesiastical burial, and refused to allow bells to be rung for him, as was normal, though they did not dig him up: they had made their point.

What point? The dead king was judged 'unworthy of absolution as a *biothanatus*'.[69] Rufus was not a suicide, so that to translate the medieval Latin *biothanatus* as a *selfbona*, or 'suicide', must be wrong, at least *c.*1100. To add an 'or' clause, saying a *biothanatos* was a suicide *or* someone dead untimely in some other way, is only to postpone the question. Morally speaking—as we are supposed to be—there is a world of difference between dying by accident and on purpose. But in Orderic's vocabulary there was no difference, despite his theology. Or should we say there *because* of his theology? Orderic was sophisticated enough to know the distinction between voluntary and involuntary acts, and all the better because of the ecclesiastical reform of which he was part. But that reform laid stress not only on moral critieria but also on sacraments. What Rufus *qua biothanatus* was judged unworthy of was a sacrament, absolution, a term from a vocabulary of penance just then undergoing marked transformations, putting in higher relief the efficacy of

in the sense of suicide, in an argument about saintly virgin martyrs: Aldhelm, *De virginitate*, ch. 31; ed. R. Ehwald, *Mon. Germ. Hist., Auctores Antiquissimi*, 15 (Berlin, 1913), 270.1.

[67] *Historia ecclesiastica*, bk 5, ch. 19; ed. M. Chibnall, vol. 2 (Oxford, 1972), 176: 'cum reprobis et biotanatis ab aequissimo iudicio damnetur in die iudicii.' Dr Chibnall translates: 'the reprobate and those that die a violent death.' Cf. Latham, *Dictionary of Medieval Latin from British Sources*, Fasc. 1, 200. This is the definition I am proposing for refinement, in this period.

[68] Ibid., bk 10, ch. 15; ed. Chibnall, vol. 5 (Oxford, 1975), 292.

[69] Ibid.: 'et aecclesiastica veluti biothanatum absolutione indignum censuerunt'.

ecclesiastical rites. It was the absence of Church reconciliation which merged the suicide and the violently killed into one. Of course many honest soldiers and farm-workers were violently killed, too many for us to believe good clerics would have called them all *biothanati*: the word is still fairly rare. So it needs redefining as not 'one violently dead, especially by suicide', but rather 'a wicked, unrepentant person, suddenly killed, unreconciled to the Church'. That interpretation gains force from the similar usage of the word *desperatus*, identified in Chapter 11[70] as either a suicide, or an irreligious person who, in the face of death, had stubbornly refused sacramental help and was therefore denied proper burial. A more distant resonance, with the same supportive effect, lies in a feature identifiable in Roman law, which, for all its lofty wording, had the consequence of punishing only those suicides believed on other grounds to be rogues.[71]

These reflections will help us interpret the twelfth- or thirteenth-century exorcism formula. It guards against 'the diabolical machinations of unclean spirits or *biothanati* or those who wander [*machinationes diabolicas spirituum immundorum sive biothanatorum, sive errantium*]'. *Biothanati*; unclean spirits; wanderers. These three classes are listed vaguely as alternatives, as if they were alternative ways of saying the same thing. All in all, then, we should not be too confident in translating *biothanati* there as our 'suicides'. That is too modern a notion to represent truly the word's contemporary meaning. It is also worth noticing that another version of the same formula, with otherwise the same wording, drops the term *biothanatus* altogether,[72] nor, it has to be said, have I found *biothanati* or any other word for suicides in other comparable formulae.[73]

Indirect evidence of suicides as ghosts

Before weighing the importance of this negative direct evidence it will be prudent to look at the indirect—other, that is, than the presence of suicide ghosts in and after the sixteenth century. One piece is the storms or natural disasters commonly caused by ghosts. In the first volume of this book a whole category of chronicle accounts of suicide was distinguished by references to the bad weather, which followed a suicide unless ritually prevented (for instance, by

[70] Above, pp. 379–80. [71] Below, p. 528.

[72] *Pat. lat.*, 138, 1050B–2D: a *benedictio aquae* attributed to 'St Gregory the Great', from Cod. Vindob. theol. 685.

[73] e.g. in the formulae by, or attributed to, Grimald of St Gall (†872) in *Pat. lat.*, 121, 795–926, esp. at 847C–8B; the *Liber sacramentorum s. Gregorii magni* in *Pat. lat.*, 78, 232C; and the *Liber sacramentorum Gellonensis. Corp. Script. Eccles. Lat.*, 159 (Turnhout, 1981), nos 497–512, on pp. 472–85 (see esp. the *benedictio salis et aquae* in §3019 on p. 483, lines 6–8 'ut ubicunque asparsa fuerint omnis spiritus immundus ab eo loco confusus et increpatus effugiat'—but nothing more specific).

the ejection of the corpse from the churchyard). The group included a suicide in Augsburg in 1300 (which produced a thunderstorm, which rotted vegetables and caused accidental deaths until the suicide was purged by a public fast); a disastrous flood in Venice in 1342 (caused by a schoolmaster's suicide, and where by public demand the corpse was exhumed and removed from consecrated ground); and cases from Zürich in 1417, Basle in 1439, and Metz in 1484, with comparable character and outcome.[74]

To this indirect evidence should be added more from legends. Take the legend of St James's pilgrim, restored to life after killing himself on the Devil's suggestion, the earliest account of whom is a poem written in Monte Cassino in the 1080s. Two of its lines again suggest that suicide disturbed the weather. After the pilgrim's suicide

> At once a savage throng
> Of spirits snatch his soul, they seize and drag
> It o'er the peaks and through the valley deeps.[75]

Later, the bad spirits meet good spirits, and the two shout at each other as they debate the pilgrim's soul as it travels from southern France to Rome and back, making it conceivable that the demons' party was thought to have caused havoc in the weather as it passed along the valleys and over the mountains. We know that day-to-day demon theory linked demons both with suicides and with the 'middle air' (the air on the level of valleys and mountains). A commentator on Judas' death, for instance, can refer to the demons that inhabited the air at the level of his suicide, and a fifteenth-century French mystery play will take it for granted that Herod's suicide should be followed by a tempest, made by demons as they carry his soul to Hell.[76] Dante, one and a half centuries earlier, had likewise described how demons can cause tempests after the death of a very bad man (not a suicide).[77] A further example is in the Long Legend of Pontius Pilate (written not far from the time of the Monte

[74] *The Violent against Themselves*, 110–13.

[75] Guaiferius, *Carmina*, 2: *De miraculo illius qui seipsum occidit*, lines 90–2 [*Pat. lat.*, 147, 1287B]: 'miseram mox turba ferorum / Spirituum capiunt animam, rapiuntque trahuntque, / Per summas valles agitantes atque per imas.'

[76] William of Nottingham, *Commentarium in evangelium* [*s. Matthei*], at Mt. 27: 5; Oxford, Bodleian, MS Laud Misc. 165, fol. 531^{v}: 'Sunt autem tres rationes quare tali morte decuit proditorem interire. Primo ut elevatus in aere, socium demonibus se ostenderet in hoc aere caliginoso habitantibus.' Cf. the Matthew commentary ascribed to Anselm of Laon in MS Alençon, Bibl. munic., lat. 26, fol. 183^{b}: 'Qui [=Judas] abiens laqueo se suspendit, ut probaret tali mortis genere se esse perosum caelo et terrae'; Hildegard of Bingen, *Causae et curae*, bk 2. *De dei vindicta, De casu Luciferi*; ed. P. Kaiser (Leipzig, 1903), 57.13–19; 58.2–21; Herrard of Hohenbourg, *Hortus deliciarum*, ed. R. Green and others, Studies of the Warburg Institute, 36 (London and Leiden, 1979), *Reconstruction*, 245 (§490): 'Itaque in aere strangulatus elevatur, demonibus in aere commorantibus associatur.' The play: Arnoul Greban, *The Nativity* (as on p. 351, n. 90), 108.

[77] *Purgatorio*, 5: 109–29.

Cassino poem), which tells of Pilate's suicide. We recall from it that the disposal of Pilate's body successively in the Tiber and the Rhône caused thunderstorms, which ended only when the body was put in a deep well in the Alps.[78] Why all this is indirect evidence of ghosts is that all these features—storms and ritual purification—are part of the standard lattice of beliefs and rituals normally applied to *revenants* in medieval as well as in better-documented times.[79]

The strictly medieval evidence for suicide ghosts does not therefore amount to much. Let us try to assess the meaning of this. The first factor to take into account is the reticence of medieval sources not only on suicide as such but also on pagan superstition, of the kind that included walking corpses. The price of Gregory the Great's Christian adaptation of some kinds of ghost story was that the lower layers of popular belief, the ones he did not touch, with their raw paganism, tended to escape record. This is not just the opinion of a twentieth-century historian. It has contemporary witness. A Yorkshire canon *c.*1196 had heard, in his own day, many trustworthy reports of wandering corpses (none of them, as it happens, suicides), so many that he could not write them all down. Yet he professed himself baffled by the total silence of historical writers to report on the same happenings in earlier times, especially—he added—when they usually took care to mention strange happenings; and he understandably concluded that these hauntings must be a recent novelty.[80] Understandably but wrongly: William of Malmesbury, in his *Deeds of the English Kings*, written seventy years earlier, had said so many Englishmen believed in the 'rubbish [*naenias*]' about wandering corpses, that he regarded it as 'virtually innate in the English nation'.[81] Other reports, from other places, show it was actually innate everywhere, England, France, Germany, and almost anywhere else where evidence survives. Remarkably often, for all that, the authors *think* the beliefs peculiar to their own place or time. 'Why is it,' Gregory the Great's disciple had asked naively in the fourth *Dialogue*, 'that in these recent times so many souls make an appearance when

[78] Above, pp. 342–3.

[79] As, for instance, in two of William of Newburgh's stories (as in n. 80, pp. 182–90); cf. also Schmitt, *Revenants*, 132; cf. 102–3, 168–73, 201–2.

[80] William of Newburgh, *Historia rerum anglicarum*, bk 5, ch. 24; ed. R. Howlett, *Chronicles of the Reign of King Stephen*, Rolls Series (London, 1884–5), vol. 2, pp. 185–6: 'Mirum plane si talia olim contigere, cum nihil tale in libris veterum repreriatur, quibus utique ingens studium fuit memora- / [p. 186] -bilia quaeque litteris mandare. Cum enim quaedam etiam modica conscribere nequaquam neglexerint, quomodo rem tanti stuporis simul et horroris, si forte illo seculo contigit, suprimere potuere? Porro si velim omnia hujusmodi scribere quae nostris contigisse temporibus comperi, nimis operosum simul et onerosum erit.'

[81] William of Malmesbury, *Gesta regum*, bk 11, §213; ed. W. Stubbs, Rolls Series (1887), 134–5: 'Has sane naenias sicut ceteras, ut credant nequam hominis cadaver post mortem daemone agent discurrere, Angli pene innata credulitate tenent, a gentilibus nimirum mutantes, sicut ait Virgilius [*Aeneid*, 10, line 641]: "Morte obita quales fama est volitare figuras".'

in former times they did not?'[82] In other words, there is a good reason why these beliefs escape record. If such naked paganism had been allowed on the clerical Internet, it might have become universal knowledge. It was not. So it always had to be the product, when it did appear in writing, of *ad hoc* anthropological enquiries made in one area and time.[83]

There were, then, two different taboos at work, in combination: on suicide, and—in the generality of clerical literature—on certain kinds of pagan belief. The silence of medieval sources on suicides as ghosts does not, therefore, have to mean suicides did not become ghosts. The sharp contrast with the loquacity of sixteenth-century evidence nevertheless needs explaining. I argued near the end of *The Violent against Themselves* that the end of the fifteenth century may have seen a rise in suicide rates, together with a sharpening of reactions to suicide in the form of more mention of it, sharper punishments, and—these last few pages would suggest—a higher-profile belief in suicides as *revenants*. A conclusion on these lines would have a medieval corollary. If there were fewer suicides and if fear of suicide had reached a less epidemic degree, then perhaps there *were* fewer suicide ghosts. Indeed, there might have been none at all, or next to none (just enough to share in that possible reference to them in the exorcism, as *biothanati*), on the hypothesis that a certain threshold of both incidence and fear must have been reached before a particular kind of dead person qualified for the category of ghost. In the Middle Ages (that hypothesis implies) the threshold had not been reached. This conjecture is conceivable and does not flout the present evidence; but in the presence of the doubly black hole from which our question must be answered the hypothesis must remain, itself, somewhat ghostly. Having no solid means to refute it, the historian can use his indirect evidence at least to exorcise it. That is, because many of the peripheral parts of a belief in ghosts *were* definitely present: the body rituals and the bad weather, all testified by chance testimony, and revealing a general state of superstition (despite the reticence on superstition general to our sources) somewhere in that black hole; because these were present, we may suspect there *was* a belief that suicides might haunt, only that it was not of a

[82] *Dialogues*, bk 4, ch. 43; and A. de Voguë, vol. 3 (of edn), Sources Chrétiennes (Paris, 1980), 154.1–3: 'quid hoc, quaeso, est quod in his extremis temporibus tam multa de animabus clariscunt, quae ante latuerunt?'

[83] Noticed by Schmitt, *Revenants*, ch. 3 §1 'L'éloge du temps présent', pp. 78–80; another example: Agobard of Lyons, *Contra insulsam vulgi opinionem de grandine et tonitruis*, ch. 1, *Pat. lat.*, 104, 147A: 'In his regionibus . . .'; and ch. 3 [col. 148C]: 'hic error, qui tam generaliter in hac regione pene omnium mentes possidet.' Cf. ibid., ch. 16 [col. 158B]: 'ut nunc sic absurde res credantur a Christianis, quales *nunquam antea* ad credendum poterat quisquam suadere paganis.' [My emphasis.] Otloh of St Emmeram, on the other hand, soon exhausted his store of contemporary stories of this kind and resorted to his Regensburg library; *Liber visionum*, Visio 18; *Pat. lat.*, 146, 374D.

sufficiently epidemic degree to breach the two taboos that kept it away from the records.

It only remains to fuse this modest conclusion with the main lesson of this chapter, which is that the community played an essential role in conceiving and enforcing the rigorous suicide laws. All we have to recognize, then, is that it was also the community, as such, that nourished a belief in ghosts. Claude Lecouteux, an eminent student of the *revenants* ('comers-back') poses the question 'who is it who comes back?' and gives first place to persons of a character in some way unsocial or antisocial, persons hard to admit into the clan; and much more on this theme.[84] Jean-Claude Schmitt, likewise, attributes each of his medieval ghosts to 'a knot of social relationships', relationships centred on family and village, even, at the highest level, on Christendom itself with its self-image of 'une seule grande famille'.[85] Hence the importance of the village cemetery and of collective prayers. 'Quibus non communicavimus vivis non communicemus defunctis,' as Leo I had said.[86] There should be no need to elaborate this more.

What *may* need elaborating, in respect of ghosts in general, is a feature these last two chapters have repeatedly shown in particular respect of suicide: a dearth of moral criteria in deciding who became ghosts. The dearth had obtained in the ancient world: Tertullian (†*c.*225) made use of it in polemic against all contemporary ghost beliefs, which rested, he said, on morally confused categories, the most notable being that of persons dead 'before their time', conceived to wander the earth because excluded from the world of the dead until their hypothetical natural lifespan was reached. He especially mentioned, as subject of these mistaken beliefs, newly born babies, girls before they were married, and men killed by the cross, axe, or sword, or by wild beasts.[87] None of them, Tertullian observed, were categories distinguished by moral criteria. The same dearth has lasted as long as belief in ghosts, one con-

[84] Lecouteux, *Fantômes et revenants*, 139.

[85] Schmitt, *Revenants*, 218; cf. 212, and ch. 8 (pp. 197–221) generally. The theme recurs in Schmitt's book, as indeed in his other writings.

[86] Cf. above, p. 43.

[87] *De anima*, ch. 56, §8; (as below, p. 584, n. 176), pp. 864–5 (lines 57–60, 64–6): 'Proinde extorres inferum habebuntur quas vi ereptas arbitrantur, praecipue per atrocitates suppliciorum, / [p. 865] crucis dico et securis et gladii et ferae; nec iesti porro exitus violenti quos iustitia decernit, violentiae vindex. . . . Si bonos [sunt inferos], cur idem animas immaturas et innuptas et pro condicione aetatis puras et innocuas interim indignas inferis iudicas?' On the newly born cf. Virgil, *Aeneid*, bk 6, lines 426–30. This is not the place to explore Roman ghost beliefs, beyond referring to the seminal article of E. Jobbé-Duval, 'Les morts malfaisants: *larvae, lemures* d'après le droit et les croyances populaires des romains', *Revue historique de droit français et étranger*, 4th series, vol. 2 (1923), 344–84 and 554–96: but it may be material to refer to recent documentation from tombs showing the persistence of such beliefs *even among Christians* (despite Augustine and Tertullian): P. A. Fevrier, 'La tombe chrétienne et l'au-delà', in *Le temps chrétien de la fin de l'antiquité au moyen âge, iii^e–xxx^e siècles* (Paris, 1984), 163–83.

sequence of which is that it can be measured. A survey of ghosts in nineteenth-century rural Poland quantified their recruitment categories, showing that among 500 reported hauntings, the largest single contingent was that of aborted, stillborn, and unbaptized infants, who formed 37 per cent of the total; the drowned came next, with 20 per cent, then men dying on or just before their wedding day, with 10 per cent, followed by suicide, with 8.6 per cent, the hanged, with 7.5 per cent, and, last of the main categories, women dying in childbirth, with 5 per cent.[88]

All these categories would repay thoughtful reflection. As for unbaptized infants, we know from Tertullian that some contemporaries thought newly born babies became ghosts if they died,[89] as if all St Augustine's baptismal theology (which stressed the necessity of the sacrament for salvation) was of no account at this level. For that belief was pre-Christian, and the horror of a baby's dying unbaptized only gave it, on that level of understanding, a Christian expression. It was the same with William Rufus, *pace* the English prelates and their absolution. Though living in a Christian age, Rufus was *biaiothanatos* in much the same sense as a violently killed Greek, of a time long before the sacrament of absolution was devised. And, just as these criteria had, at best, an indirect and imperfect correspondence with Christian sacraments, so did they with Christian morals. As a touchstone for defining who became a ghost, Jean-Claude Schmitt has laid stress on the timing of death on or near a *rite de passage*, like birth, marriage, child-bearing: die at, or near, one of the thresholds in life, and you will haunt.

Conclusion

It is time to conclude this chapter, and this trio of chapters. The conclusion must be that it was not, in the last resort 'monarchy', as such; nor even, in any consistent, non-oscillating sense 'the Church', as such; nor any level of their representatives, as such, which emerges as the driving force of those materialist reactions to suicide. All may have contributed; but the most insistent source, the one hardest to identify, was surely the hugger-mugger human community *qua* community. In respect of suicide, of all occasions of death, the nearest—with the possible exception of suicidal execution—to constituting a distinctively moral stigma on the dead person, this construction fits the anthropologists' model of pollution ideas and their functions. They say a social group must maintain its central normative framework and will do so

[88] L. Stomma, in Delumeau, *La peur en occident*, 118, and in Lecouteux, *Fantômes*, 31. Cf. the violently-dead seen by *Sir Orfeo*, ll. 387–99; ed. A. J. Bliss (Oxford, 1966), 34.

[89] *De anima*, ch. 58, §5; p. 864, line 33: 'ecce obiit verbi gratia infans sub uberum fontibus . . . qui tamen octoginta annos victurus fuisset.'

with a roughness corresponding to that of the unpredictable environment in which it has to survive. All immoral acts, after all, are contagious, some to a lethal degree, and these latter, especially, cannot be allowed to happen without the most fearful sanctions. Suicide was yet again an extreme. Nothing was more terrible, nothing more catching. Its contagious character has been abundently demonstrated from the clearer data of recent centuries, as by Durkheim, from his nineteenth-century evidence, which indicated its contagiousness both in general and in the form of copycat suicides.[90] The same has been confirmed in today's mass-media conditions.[91] A medieval community did not ask for statistics. It felt certain things by intuition, as have, in our own century, many illiterate, non-European peoples with no access to statistics (and among whom cases can be found of the same belief that suicide is contagious).[92] Of the worst medieval medical threat, plague, almost the only thing late medieval populations knew about its cause was that plague was infectious,[93] and they applied the same principle, to the equivalent extreme, in the moral sphere. Hence they recoiled from the dread act of suicide and mobilized their self-protective mechanism, the age-old, chronically extroverted, 'unequivocal' (to return to Mary Douglas's word) rules that punished the dread act. The rules fused morality with its material symbols, and hence were often unjust to individuals. But the rules were not there to ensure individual justice; God had to do that. Rather they were there to ward off pollution. Nor, looking at the balance of such statistical hints that we possess, is there any compelling reason to think that they failed.

[90] Durkheim, *Suicide*, 128, 131–42.

[91] D. R. Phillips, 'The influence of suggestion on suicide: substantive and theoretical implications of the Werther effect', *American Sociological Review*, 39 (1974), 340–54, with literature.

[92] Below, pp. 537–8.

[93] e.g., S. Guerchberg, 'The controversy over the alleged sowers of the Black Death in the contemporary treatises on plague', in S. Thrupp, *Change in Medieval Society* (London, 1965), 208–224 [reprinted from *Revue des Études Juives*, 108 (1948)].

15

The Curse in Antiquity

Every subject of study breeds its own dangers, peculiar to it and inescapable by its students. Medieval ethics and law are an example. To understand anything medieval at all you must give a lot of time to it, and specialize. That means you know less about everything else; and that, in turn—though bearable as a limitation in most fields of study and eased by the knowledge that other specialists are busy specializing in theirs—presents a peculiar danger, not found elsewhere, in respect of law.

The danger derives from the layered character of the relevant medieval traditions. To make this clear, let us grade the layers from top to bottom. On the top, with or without alloy from below, was what legislators wanted and drafted in writing. The legislators were themselves divided into layers, as between (say) a learned Bologna jurist, at the top, and, much lower down, a town clerk merely recording customs. Below all of these were people who were not legislators, or in any sense lawyers at all. For this kind of person—which means most people—written law has in most ages been at most one factor in the normative framework of their lives, a factor stronger or weaker according to their temperament or milieu. It is this fact which presents dangers for the early medievalist. One of them is already well-known. Starved of other evidence, he tends to gorge himself on written laws, and hence forget that law and fact may be two quite different things. They have been shown to be different—to mention one old *cause célèbre*—in the case of Charlemagne's capitularies, which probably give an ideal, rather than a real, picture of how Frankish society functioned. But the danger I wish to identify now is on a different plane. If the danger of misreading Charlemagne's capitularies can be called a vertical danger, because it lays its tier of potential illusion over all that lies below the level of articulate law, this other danger (the one I now wish to identify) though it derives from the first, is better thought of as longitudinal. It concerns chronology.

For besides being split vertically into layers, cultures are also articulated horizontally, by chronological rhythms. The rhythms are not unlike marine

wavelengths, short in shallow sea, long in the ocean, or like the invisible long or short wavelengths of radio. In culture, the shortest wavelengths have proverbially been those of fashions in dress: short skirts one year, long the next. Legislative fashions, at one level, can be almost as fast-moving, as they were to Dante's annoyance when he scolded Florentine law-makers who 'spin laws so subtle that those made in October do not stretch half-way through November'.[1] Rhythms in law and politics are usually more sedate than that. But they can still be measured in periods relatively easy to comprehend, of decades, or reigns, or lifetimes, perhaps even—though historians endlessly debate it—in centuries (what else is implied when we say 'fin de siècle'?). The slowest rhythms of all are those of Church history, genuine Church history, about things like Church organization or liturgy. That is why religious terminology is studded with words from languages otherwise long since dead; and why (for instance) Canterbury is the senior English archbishopric—because, 1,400 years ago, it was effectively capital of Kent, and the first missionaries went there; and why the pope sits in Rome—because, over 2,000 years ago, Rome was the capital of a vast empire. 'Denn der Geist bleibt länger als die Macht': 'The spirit endures longer than the power'—to quote an aphorism of the great German church historian Tellenbach.

Vertically, then, a culture is differentiated by layers, lying on top of each other like geological strata; horizontally, by chronological rhythms, short at one level and longer, in different degrees, at others. If these two dimensions of difference are added together, the danger I refer to comes into focus. By specializing in one period—as we also must, to know anything about it—and by studying it from the top down—as we must, because our documents start at the top—we tend to miss two things. We miss the lower layers of a culture (because those are the layers most elusive of documents) and secondly (because we miss those) we miss *also* the corresponding rhythmic patterns, the patterns that govern life on those slow-moving, elusive, subterranean layers of cultural expression. If the wavelength at this level were long—to say the same thing again another way—we would miss its length, through a combination of (on one hand) period specialization and (on the other) the murkiness of those low legal strata.

I said *if* the wavelength were long. But in certain religious matters reflection alone teaches us that it *must* be long. Succeeding generations may differ from each other in many respects. Where our ancestors rode horses or mules, we drive cars or ride bicycles; and differences of this kind seem particularly glaring today with space travel and the rest. In fact, the all but continuous character of western technological evolution entails that throughout western

[1] *Purgatorio*, 6, 142–4: '. . . che fai tanto sottili / provedimenti ch'a mezzo novembre / non giugne quel che tu d'ottobre fili.'

history each generation must (if in different degrees from epoch to epoch) have differed technologically from its ancestors. But these successive differences on certain planes of life do not mean that succeeding generations differ on all planes. Julius Caesar's contemporaries and ourselves also have things in common, not bicycles perhaps, but things still more essential to our being—if we forget about them it is precisely *because* they are so important—like birth, reproduction, death, hope, fear, pleasure, pain, restlessness, fatigue, and a hundred other experiences and dispositions, fundamentals which bind succeeding generations quite as closely as anything else separates them, or more so. It is in these fundamentals that religion has its roots. That is why its rhythms will necessarily be long, for all the supposed conversions and fallings-away that punctuate its chronology. And if they are long, then the medieval historian can easily miss their length by the mere fact of being a medievalist, that is (to repeat one last time a principle on which the very structure of our investigation turns at this point), by the same conditions which acquaint him with the anatomy of the period in the first place.

Only an approach on these lines can make sense of the mixed character of early medieval Church documents. For the mixture is between elements originating in the upwards aspirations of the more spiritual-minded clergy, anxious to nourish palpably Christian values, and downwards in the other direction, the gravitation of the world they impinged on. Their Church, as such, claimed a range universal vertically as well as horizontally, touching the richest and poorest, the wisest and most ignorant. Its documentation was conceived as a seal to set a mark on the world. But to the historian the documentation serves also as wax, bearing that world's marks. The marks it bears cover a corresponding vertical range, from different cultural strata, strata endlessly meeting and merging in different configurations, their encounter, at any instant, often defying modern analysis. (What are we to make, for instance, of that document quoted earlier, imposing an ecclesiastical penance, as for an offence against God, on a man who had drunk water with a dead mouse in it?)[2] The legal evidence therefore records a fusion of elements with origins differing on a vertical scale; and that means, because of what I said about the two scales at right angles to each other, also chronological wavelength. Some elements in the law, caught in the surviving legislation as by a camera, record conditions immediate and ephemeral and in that sense truly medieval, or early medieval; others, varying down a whole gamut of chronological wavelengths, record conditions all but timeless.

It would be an endless task to name all the areas of Church history where these considerations apply. It is a short one—and the only one necessary—to

[2] Above, pp. 250–1.

point out that they touch the subject of the present volume, the medieval treatment of suicides. It has been shown that the earliest palpable legal evidence for suicides' non-burial is in a Galician canon of 561; the earliest literary evidence, in St Augustine, writing around 420. If the directly documented history of medieval suicide law begins at these dates it is because it had to. But—and this is where the central problem lies—these two documents do not take us far in the matter of historical explanation, in the aetiology (theory of causes)[3] of the suicide law. Augustine wrote one thing, a council decreed something related but different. What was written and decreed was repeated, we have seen, for some ten centuries with little change. Since there is nothing easily visible before that, the conclusion is all but inescapable that we know all we *can* know about the origin of the law. Reasons were nevertheless mooted earlier for thinking that, behind both those recorded expressions of the suicide law in Braga, St Augustine, and their tiny handful of analogues, might lurk something large and very old; that the principles revealed above the written surface, in other words, might belong to a history with a long rhythmic wavelength and therefore have a *pre*history. All that is needed now is to agree they *may* have done. That acknowledged, a search can begin on the ground to see if that abstract reasoning can be filled out by anything approaching hard evidence. That is the search to be conducted in these final two chapters. Their quarry will be, not the history (which has already been attempted in the foregoing fourteen) but the possible prehistory, of the utterances on suicide of St Augustine and I Braga.

The period from which the search has to begin, roughly the sixth century, is notoriously the most obscure in western history since the fall of Rome. That fact could be an encouragement. Ample written evidence is not to be expected, while such evidence as there is—because it comes from a top cultural layer under siege—should bear traces of alloy from lower down. Fortunately we know it does. Early Germanic Church council proceedings are a proven hunting-ground for research into early Germanic religious custom, most of it implied in episcopal reactions to things bishops did not like, that is, 'pagan' practices and beliefs.[4] The early suicide canons come from just this frontier, between episcopal religion and whatever it replaced. Although the Braga suicide canon has no proper antecedent in the acts of western Church councils, we know with complete certainty that an unwritten, or otherwise irrecoverable, law of the same purport must have existed, since the 561 text

[3] αιτία: cause.

[4] Among many examples of this use of conciliar *acta* are E. A. Thompson, *The Goths in Spain* (Oxford, 1969), 51–56; J. N. Hillgarth, 'Popular Religion in Visigothic Spain', in E. James, ed., *Visigothic Spain* (Oxford, 1980), 3–60; and V. J. Flint, *The Rise of Magic in Early Medieval Europe* (Oxford and Princeton, NJ, 1991), esp. pp. 441–2.

reveals its purpose as that of reaffirming a law that has been flouted: the priests (we recall) have been giving formal burial to suicides 'through ignorance'.[5] The question arises, therefore, ignorance of what? On its own testimony the canon cannot be the beginning of its own history; nor, for the same reason, can a search for what was this beginning lead anywhere but into the dark. That leaves the historian only one choice: either to give up all hope of knowing where the canon came from, or plunge just there—into the dark.

We will be less afraid of the dark for knowing what is on the other side, namely the Roman Empire and the world Rome came to dominate. The task immediately ahead, therefore, will be to look for solid evidence that pollution rituals relating to suicide were present in the ancient Mediterranean world. This is not the same thing as looking for a 'Roman attitude to suicide' (any more than a Greek one)—an expression on which I shall say more at the end of the chapter: to prove one thing was there does not prove its opposite was not also there. It is only pollution rituals, of a kind analogous to those in medieval Europe, that we are after. Since the evidence in question is scattered both in place and time and is of great variety, no attempt will be made to present it with strict chronology, which may reflect almost nothing except documentary accidents. Instead, it will be rehearsed systematically according to its different categories, and in so far as chronology is a help at all, it will be best at this point, in fact, to continue going backwards, which means starting with Rome and the Latin world, and going later to the Greek and Jewish evidence.

Rome

Rhetoricians

Some five or six centuries before the Council of Braga, the Iberian peninsula had given birth to two famous rhetoricans, Seneca Rhetor (or the Elder: he was father of Seneca the philosopher, and died *c.*ad 37) and Quintilian (*c.*ad 30–*c.*ad 95). Both ended their days as teachers of rhetoric in Rome. In the course of teaching they composed exercises, of a kind commonly designed to teach rhetoric for law-courts, by arguing out paradigm cases.[6] The cases they used might be imaginary. So—though less probably—might some of the law they adduced. What is certain is that the exercises were meant to be useful so they had to relate, somehow, to legal ideas in one or other region or layer of contemporary practice. These *declamationes* (as they are normally called) therefore remain documents not only of literature, but indirectly also of cultural history.

[5] Above, p. 183.

[6] S. F. Bonner, *Roman Declamation* (Liverpool, 1949), 84–5.

Two passages from the declamations are of particular interest to the student of suicide. The first is from Seneca Rhetor. In old age, about ad 36, he compiled from memory a series of argued cases he claims to have heard from rhetoricians in his lifetime, calling this particular series *Controversiae*. One 'controversy' debates whether a man who has killed himself should be 'cast out unburied [*insepultus abiceretur*]', and contains two speeches, one for and one against the burial. The speech *for* decent burial is much the longer and more coherent, drawing mainly on the humanitarian position that to deny it would add a 'last straw' to the suicide's already pitiable misfortunes. It is as if the author, Seneca Rhetor, clearly sympathized. The case *against* is accordingly put more briefly, and as a series of affirmations of dubious coherence, as if Seneca did *not* sympathize. The arguments he gives are of all the greater historical interest for that. Seneca Rhetor is unlikely to have thought of the arguments himself, and that can only mean he must have picked them up, here and there, from a contemporary milieu he disagreed with.[7]

The not very coherent arguments against burying the suicide are as follows. (I have added ordinal numbers to help with their analysis):

1. It is a shame and scandal [*facinus indignum*] if hands are found to bury a man who has died by his own.
2. As he seized a sword I saw his eyes glaring, at whom I know not: I know only that a crime was in his thoughts.
3. He took refuge in death because some crime was on his conscience.
4. That he cannot be condemned is just one of his crimes.
5. It was for people like this that the fear of something after death was devised. They do not fear death itself.
6. Nothing was beyond the audacity of a man who could kill himself.[8]

Our earlier review of Roman suicide law, in Chapter 5, has prepared us to comment at once on two of these clauses. Number 3 echoes the principle which, even as Seneca Rhetor wrote, was on its way to becoming the legal norm, namely that suicide committed under a criminal charge amounted to a confession to that charge. Meanwhile number 6 echoes the phrase which would reappear in codified Roman law, just conceivably from Seneca Rhetor's own text, namely *nihil non ausurus fuit qui se potuit occidere*. Seneca's *Controversia* may thus have been linked as cause, as well as effect, to current legal

[7] For contrary readings, see n. 11 below.

[8] The Elder Seneca, *Declamationes*, bk 8, §4: 'Facinus indignum si inveniuntur manus quae sepeliant eum quem occiderunt suae. Sumpsit gladium, video ardentes oculos—in quem, nescio; quod solum scio, scelus cogitat. Nescio cuius sibi criminis conscius confugit ad mortem, cuius inter scelera etiam hoc est, quod damnari non potest. Contra hos inventum est ut aliquid post mortem timerent, non timent mortem. Nihil non ausurus fuit qui se potuit occidere.' Here, as earlier, I have used Loeb editions unless otherwise stated. If I depart from the Loeb translations, it is again to emphasize features of *ad hoc* relevance.

thinking.[9] The other four clauses divide into two pairs. Number 1 and 2 merely state, without explaining, the wrongness of suicide, number 1 associating it with shame and scandal, number 2 with crime and madness (*ardentes oculos*). Both offer the additional interest of references to the means of suicide, notably (in number 1) the hand. It is as if the corporal member itself, in all men, were soiled by the act of one man's own hand, in killing himself: hence no *other* man's hand could bury him. As for clauses 4 and 5, they jointly draw attention to a feature in suicide we have already noticed as a constituent of its maverick status: that is, that if suicide is a crime at all it is a crime that cannot be punished, and has proportionately greater call on supernatural sanctions.

The second rhetorician, Quintilian, was born around ad 30 in Calahorra in northern Spain (some 350 miles from Braga, as it happens). The *Minor Declamations* ascribed to him were probably drawn from notes made by his pupils in Rome towards the end of the first century and consist of a lawyer's model speeches. Two of the speeches mention a law which, this time conditionally, denies burial to suicides. The condition is that 'Whoever fails to vindicate in senate his motives for killing himself shall be cast out unburied.'[10] *Insepultus abiceretur*: the same phrase again. Quintilian's purpose, in the two *declamationes*, is to show respectively that the two persons concerned *do* have grounds for suicide. One is a poor man who has lost his house and family by arson. The other has just killed his wife for adultery and suspects his son (her stepson) of being the guilty party. Both, Quintilian argues, should be allowed to kill themselves without posthumous penalty.[11]

Quintilian (I waive doubts about his authorship because they do not matter here) does not pretend, as Seneca Rhetor does, to have remembered the speeches. The speeches were his own invention. But even such inventions had to make reference to some area of legal reality, even if it is only a custom vaguely remembered. That this was true here is suggested by two circumstances. One is internal. In introducing each of the two *declamationes*,

[9] Above, p. 175; cf. Grisé, *Le suicide dans la Rome antique* (Montreal, 1982), 278 and n. 73.

[10] *The Minor Declamations ascribed to Quintilian*, no. 337; ed. M. Winterbottom (Berlin and New York, 1984), 212–14; p. 213: 'Qui causas in Senatu voluntariae mortis non adprobaverit, insepultus abiceretur.'

[11] Nos 337 and 335 respectively [ed. Winterbottom, pp. 212–14 and 206–9]. The view most radically opposed to mine is most recently stated, with a claim to universal support by classical scholars, by A. Wacke, 'Der Selbstmord im römischen Recht', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Rom. Abt., 197 (1980), 48; 'nach allgemeiner Ansicht, eine reine Erfindung [in the general view, a pure invention]'. I shall return later to the academic debate about the meaning of these documents but mention here, as among older authorities to share Wacke's view, Hirzel, 'Selbstmord', pt 3, 441n, and Theodor Thalheim in Pauly-Wissowa, *Realenzyclopädie der Altertumswissenschaft*, Neue Bearbeitung, vol. 2 (Lieferung 25n/26n), vol. 2 (Stuttgart, 1923), 1135: 'natürlich Erfindung'. (Hirzel is here referring to the law as supposed by Seneca; Thalheim, as by Quintilian.)

Quintilian sets out to explain the rationale behind the law he refers to.[12] In doing so he unconsciously displays his humanitarian revulsion for it, similar to the revulsion we have just detected in Seneca Rhetor. Quintilian accordingly allows punishment, as a deterrent, exclusively for suicide committed from wicked (*turpes*) motives. But what are these 'wicked motives'? They are (in Quintilian's words) 'escape from judgement' and 'consciousness of bad crime'. But what is new here? This is a Roman lawyer's classic position, making nonsense of the law it affects to explain, and renders the whole model speech otiose. For if the question of a suicide's guilt turns exclusively on whether he has committed another act which *is* criminal—suicide by implication not being so—then the senate, however grave its deliberations, has no business interfering with it. The case is one of crime, for the ordinary criminal judge.

In demonstrating his rhetorical art, therefore, Quintilian has unconsciously left behind an anomaly, misreading the law he is affecting to defend, and meanwhile omitting all elements in its rationale which seemed to him beyond rational defence. To put it another way: a law which punishes any suicide whatsoever, *qua* suicide, is to Quintilian so abhorrent that the only reason he can conceive of for punishing any particular self-killer is that the self-killer may, by his last act, imply his guilt of *another* crime. Why pretend, then, that the senate customarily sets itself up as a tribunal to hear reasons why some citizen thinks he should be allowed to commit suicide to decide if they are valid when (for Quintilian at least) *all* reasons are valid? Unlike Seneca Rhetor, Quintilian does not even attempt to 'think himself into' the abhorrent law. For—to repeat—the only argument he can contrive, to train his pupils with a model speech, is one that has not the slightest relevance to such a law. What else can this mean than that the law was not Quintilian's brain-child but was, rather, something he knew about and did not like?

There is a second reason for believing that Quintilian did not invent the law he refers to. References survive to a similar custom in independent sources. In particular, another first-century rhetorician, Valerius Maximus, in a collection of anecdotes written early in the century, refers to a practice in contemporary Marseilles by which the Marseilles City Council kept a supply of poison stored ready for anyone who could justify his case for suicide before the Council: 'so that the petitioner should neither be rashly offered a way of abandoning his life nor denied a speedy one if the reasons for his wish were wise.' Valerius Maximus further claims that the custom had been introduced into Marseilles from the Greek island of Ceos, fifty miles south-east of Athens, and that he, Valerius Maximus, had himself seen a high-ranking lady

[12] No. 335, §§1–2; No. 337, §3 [ed. Winterbottom, pp. 207, 212.]

of that island plead successfully before her fellow citizens for the right to take poison on grounds of her extreme old age.[13]

Other indirect allusions

Together with those three allusions, the non-burial of suicides in some areas of the Roman world can look for support to three further kinds of evidence. One, the earliest of all, is a Latin inscription of ad 136 relating to a funerary college at Lanuvium, a town twenty miles south of Rome on the Appian Way.[14] A funerary college was a mutual society whose aim was to procure its members decent funerals, as distinct from having their corpses thrown away as refuse. A belief in the importance of proper burial had apparently by this date passed down from the upper classes to slaves. Since slaves were otherwise ill-placed to secure decent burials they, or one or more benefactors, formed colleges for the purpose.[15] According to the inscription in question this particular college had decreed that: 'the right to a funeral is denied to whomsoever, from whatever motive, brings about his own death.'[16]

This inscription has engendered much speculation.[17] It appears *prima facie* to reflect a general ban on suicide, at least among the slaves or free slaves it was apparently meant for, and has often been read that way. But there are difficulties. The inscription is relatively isolated within its own categories of evidence: that is, isolated both as a legal reference to suicide among slaves or freed slaves, and as a Roman inscription implying a suicide taboo. A recent student of Roman tomb inscriptions has shown they can commemorate persons we know, from other sources, actually to have committed suicide; and the inscriptions on their tombs imply nothing wrong.[18] As European

[13] *Facta et dicta memorabilia*, bk 2, ch. 6, §§7–8; ed. C. Kempf (Leipzig, 1888), 77–9; esp. §8 [p. 78]: 'Quam consuetudinem Massiliensium non in Gallia ortam, sed ex Graecia translatam inde existimo, quod illam etiam in insula Cea servari animadverti, quo tempore Asiam cum sexto Pompeio petens Iulidem oppidum intravi: forte enim evenit ut tunc summae dignitatis ibi femina, sed ultimae iam senectutis, reddita ratione civibus cur excedere vita deberet, veneno consumere se destinavit mortemque suam Pompei praesentia clariorem fieri magni aestimaret, nec preces eius vir ille, ut omnibus virtutibus, ita humanitatis quoque laude instructissimus, aspernari sustinuit.' That this was not an everyday occurrence is clear from the visitors' reaction, when dismissed by the woman as she was about to die [p. 79, 16–17]: 'nostros autem, tametsi novo spectaculo obstupefacti erant, suffosos tamen lacrimis dimisit.' Cf. Grisé, *Le suicide*, 142–3, n. 77.

[14] Grisé, *Le suicide*, 153.

[15] J. M. C. Toynbee, *Death and Burial in the Roman World* (London, 1971), 54–5.

[16] H. Dessau, ed., *Inscriptiones Latii veteris Latinae*; *Corpus inscriptionum latinarum*, vol. 14 (Berlin, 1887), pp. 197 and 198: '[II, §5] Item placuit, ut quisquis ex quacumque causa mortem sibi adsciverit, eius ratio funeris non habebitur.'

[17] Literature in Grisé, *Le suicide*, 153–5.

[18] J.-L. Voisin, 'Apicata, Antinoüs et quelques autres. Notes d'épigraphie sur la mort volontaire à Rome', *Mélanges des Écoles Françaises de Rome et d'Athènes*, 99 (1987), 257–80. Two of

medievalists we may find that fact less persuasive than if we had been classicists. For the present study has shown that even in the Middle Ages, when a strong suicide taboo was unquestionably at work, some people, especially in the upper classes, *did* get a proper burial, even if no attempt had been made to conceal their suicide.[19]

In view of these and other difficulties, explanations other than a suicide taboo have been put forward for the Lanuvium inscription. Its anti-suicide clause could, for instance, be like that in a modern life-insurance policy which stops the policy-holder from cheating by choosing the moment of his death. Again, since funeral colleges of this kind would have been financed by slave-owners, the suicide ban may have expressed the owners' general wish not to lose slaves by suicide[20] (though the owners are being remarkably un-Stoic in that case—not to mention uneconomic—in making no exception for Stoically approved motives for suicide like chronic illness). Political-mythological explanations have also been advanced.[21] None of these theories, it should be said, has won general acceptance. Perhaps we too can consider them provisional and hence keep alive the possibility I began with: that the Lanuvium inscription really *was* anti-suicide, as it appears *prima facie*. If so, it would mark either a pocket of idiosyncratic opinion, of the kind that lodges in most complicated societies, or—as Dr Voisin himself suggests, as something appropriate to the second century AD[22]—the beginning of a turn of Roman educated opinion against suicide. It may indeed mark both. Whatever its significance, the inscription remains there, with its ostensible message.

Dr Voisin's inscriptions state explicitly that the beneficiary committed suicide (p. 273), one by military *devotio* (no. 16 [p. 279]: 'se devovit') and another unspecified (no. 17 [ibid.]: 'se occidit'). Dr Voisin offers two more examples in the same category whose language seems to me less direct. In no. 19 [p. 279], a woman bereaved of her son 'vivere abominavit' and 'animo despondit'; and in no. 20 [pp. 279–80], a man found his mental and physical anguish 'taediosum ultra modum', and 'Optatam mortem . . . potitus'. If these expressions really do refer to suicide they would smack of euphemism and therefore constitute rare epigraphic evidence of a reluctance to mention the subject, to the prejudice of Dr Voisin's hypothesis; but it is not certain that they do. The silence of other inscriptions on their beneficiary's mode of death, when we know from literary sources it was suicide, would not be inconsistent with the same reticence (against Voisin's conclusion on p. 269). The argument in the present chapter represents no quarrel with Dr Voisin's well-researched thesis, but is bound to note passages where the latter's evidence seems less secure than required, especially in view of the categorical character of the restatement of the thesis by P. Desideri, 'Il trattamento del corpo dei suicidi', in F. Hinard, ed., *La mort du quotidien dans le monde romain*. Actes du colloque organisé par l'Université de Paris IV (7–9 octobre, 1993) (Paris, 1995), 189–204, at p. 199; cf. 197: 'è chiaro che il suicidio non è di per sé oggetto di condanna'; which seems to me simply mistaken (whatever else may be said of the evidence on this topic it is not 'chiaro').

[19] Above, pp. 452–64. [20] Thus Grisé, *Le suicide*, 154–5.

[21] Dr Voisin, while dissenting from Professor Grisé's economic interpretation (p. 263 n. 24) suggests it could even have been Hadrian's roundabout way of confirming his own, non-suicidal version of the death of the hero-god Antinoüs (pp. 263–5).

[22] Voisin, 'Apicata', 263. On complications in the Roman case see below, pp. 526–30.

I said there would be anomalies in the order in which the evidence was presented, and the next example is the strongest case I had in mind. It comes from the other end of the Mediterranean and from, not a tomb inscription, but a philosopher's allusion. The philosopher was a Christian Neoplatonist, writing in Alexandria in the sixth century ad, that is, within a generation or two of the Council of Braga. The philosopher is known for nothing except his name, Elias, his authorship of a commentary to Porphyry's *Introduction to Aristotle*, and the high regard in which he was held in the Alexandrian Platonist school in the late sixth century. His allusion to suicide burial is this: 'The laws of the Romans do not permit the bodies of those who do away with themselves to be buried before they are mutilated in their feet.'[23] That Porphyry, author of the text under comment, died just after ad 300, that Elias was a Christian (as Porphyry was not), and that he taught in the late sixth century, are the only bases we have for guessing what historical period Elias is referring to. His expression *Romaiōn nomoi* might, on a minimalist interpretation, be held to refer at that date only to a Byzantine regulation of uncertain age. How much weight that reading holds depends on our reading not only of his term *Romaioi* in that place and time, but also on the ensemble of related evidence. The place and time, late Roman Egypt, will concern us again in due course. The ensemble of related evidence is the subject of our search now, and it will be best to let Elias's comment be quietly added to the dossier at this point, and the search proceed.

Its next object of interest is a single word, even more problematic than *Romaioi*.

Suspendiosi

So far we have considered a series of five simple texts, read at approximately face value. The sixth and last text in the series is harder to interpret for several reasons. The most obvious is that it contains at least three others. It is 'intertextual', being a commentary on a line of verse written many centuries earlier, and including, within itself, references from at least two historians older even than the verse. So there is a problem, even in this one text, of long chronological wavelengths: each item in it may or may not reflect the same historical milieu as is represented in any other. There is another reason. This text, more than those reviewed so far—perhaps because it is compound, perhaps

[23] A. Busse, ed., *Eliae in Porphyrii Isagogen . . . Commentarii*. Commentaria in Aristotelem Graeca, vol. 18, pt 1 (Berlin, 1900), pp. 16.3–8: '*οἱ Ῥωμαίων νόμοι, μὴ πρότερον ταφῇ παραδιδόντες τὰ τῶν ἐξαγόντων ἑαυτοὺς σώματα, πρὶν ἂν αἰκίσωνται κατὰ τῶν ποδῶν*'. Date: R. T. Wallis, *Neoplatonism* (London, 1972), 140. Cf. Pauly-Wissowa, *Realenzyclopädie* (as in n. 11), cols 1134–5, which omits this text, as does Grisé (perhaps because it is too late). For the Egyptian background, see p. 590 below.

because its implications reach further—is a modern battleground. The capacity of suicide to set up an oscillation between extremes has often been remarked on in this book. The capacity was no weaker in the classical world than anywhere else and has extended to the interpretations which nineteenth- and twentieth-century historians put on the evidence. Much of the evidence, no doubt (the part I have tried to keep clear of in this chapter) is itself equivocal and an obvious source of oscillation. But that is not the only reason for historians' opposing views. I venture to suggest that the character of a historian's world-view comes into it. A scholar tends, more often than not, to study a culture he feels sympathy with, and, conversely, to interpret the chosen culture in a manner with which he can 'empathize'. In respect of suicide in antiquity this means that, if a student of the period thinks there is nothing morally wrong with suicide he will tend to see a *Zeitgeist* of the same ambience in his sources; and that, in turn, urges him either to explain anything he finds to the contrary into nothing—as 'pure invention', or to be reinterpreted—or attribute it to a dark force foreign to his favoured culture. Thus in Rome, any trace of suicide taboo can be written down as an oriental intrusion,[24] in the Greek world, as defended only by Pythagoreans,[25] in the Jewish, as belonging to everyone in the ancient world except Jews.[26] I do not claim that the present book is free of this tendency, nor that the latter has necessarily unhistorical results. It is a matter of degree. But not all these diverse historical readings can be true at once. In respect of this one subject of suicide, with its peculiar capacity to create opposite views, it seems wise for all historians to be aware of the mechanism that bears on our views and, as a corrective, be ready, if the evidence is at all ambiguous, to see the cultures we study as mixed, and made of elements of different provenance, including some from planes well below, and for that reason older than, the articulate reasonings which lie on the surface of the written sources.

With those reflections let me turn to the sixth in our series of texts, and see what it reveals. It is a commentary on a verse in Virgil's *Aeneid*. In Book XII, Virgil relates how Latium fell to Aeneas' assault and how its queen, Amata, hanged herself. The line on the suicide is line 603 and reads:

> She ties the knot of a hideous death from a lofty beam.
> [*et nodum informis leti trabe nectit ab alta*]

In the fourth or fifth century ad the most voluminous of ancient Virgil commentators, Servius Honoratus (a writer unknown for anything but his com-

[24] Grisé, *Le suicide*, 285: 'l'existence probable d'un tabou originel, mais qui ne fut pas originalement romain'; 286: 'un souffle nouveau, venu d'Orient.'

[25] A. J. Droge and J. D. Tabor, *A Noble Death* (San Francisco, 1991), 20, 43.

[26] e.g. D. Zlotnick's notes to his translation of *Śemaḥoṭ, The Tractate 'Mourning'* (New Haven, Conn., 1966), 100; see below, p. 518, n. 88.

mentary and usually just called 'Servius') began as follows on the line in question:

> Other people say Amata starved herself to death. Nor without reason, for the sanction had been laid down in the Pontifical Books that whoever ended his life by the noose should be cast out unburied. Whence Virgil is right to speak of 'a hideous death' to denote one of the utmost dishonour.[27]

The phrase I have translated 'whoever ended his life by the noose' is *qui laqueo vitam finisset*. Theoretically that could mean 'who reached the end of life by a noose' and might, on the strictest meaning of the words, apply to someone sentenced by a court to hang by the neck, or simply to someone hanged by the neck but not necessarily by himself. But all that is unlikely. That sort of transitive hanging is not known to have been used as a criminal punishment in Roman law.[28] Nor have murderers, down the ages, ever favoured hanging as a method, not least because it demands too many hands (such murderers would need accomplices, and the victim might escape).[29] If Servius had said whoever was *hanged* (*suspensus*) should be cast out unburied, matters might be different. For 'hanging' could also mean crucifixion, which *was* a Roman punishment, carrying its own curse, as in St Paul's 'cursed by everyone who hangs on a tree' (Galatians 3: 13), quoted from Deuteronomy (21: 23) and referring to Jesus (as well as obliquely applied to Judas in Matthew 27: 5). The use of 'tree' for 'cross' in that curse was not rare in Roman writing, so that a crucified criminal could be described as being 'hanged on the ill-fated tree'.[30] However, Servius did not say any of that. He spoke explicitly of a noose, not a cross; and the fact that he went straight on to talk of *suspendiosi* as cursed makes it clear, at least by the plain meaning of his words, that it was suicides by hanging he meant.

We shall come back to these *suspendiosi* in a moment but meanwhile let me continue with Servius' commentary. He goes on:

[27] *In Aeneidos*, bk 12, line 603; ed. G. Thilo and H. Hagen, *Servii grammatici qui feruntur in Vergilii carmina commentarii*, vol. 2 (Leipzig, 1883), 626.17–23: 'alii dicunt, quod Amata inedia se interemit. Sane sciendum quia cautum fuit in pontificalibus libris ut qui laqueo vitam finisset insepultus abiceretur: unde bene dicit "informis leti", quasi mortis infamissimae.' Commentary on this passage: Vandenbosche, 'Recherches sur le suicide en droit romain', 477–81; Genin, 'Reflexions sur l'originalité juridique de la répression du suicide en droit romain', 250, n. 2; Grisé, *Le suicide*, 127–9 and 143; Toynbee, *Death and Burial*, 94; cf. also the studies mentioned in connection with particular points in the following footnotes.

[28] Wacke, 'Selbstmord', 43; Grisé, *Le suicide*, 241–3.

[29] The expert view of Star Chamber in 1552: J. Miller and K. H. Rogers, 'The strange death of Edward Langford', *Wiltshire Archaeological and Natural History Magazine*, 62 (1967), 103–9.

[30] 'Arbori infelici suspendito', quoted by J.-L. Voisin, 'Pendus, crucificiés, *oscilla* dans la Rome païenne', *Latomus*, 38 (1979), 422–50, on p. 441; with a further range of examples, 440–5, though Dr Voisin does not make clear, to a non-classicist at least, why a phrase like the one quoted should not be read 'as hanged by the neck from an ordinary tree'.

But Cassius Hemina [a Roman annalist of the second century bc, whose annals are known only through fragmentary quotations] says that Tarquin the Proud, after he had forced the people to construct the [Roman] sewers, and because of this injustice many had hanged themselves, ordered that their bodies be nailed on crosses. It was on this occasion that suicide was first considered shameful.[31]

Tarquin the Proud (the same whose son violated Lucretia) is supposed to have lived in the sixth century bc. Although Servius' account cannot be verified from any of the surviving fragments of the annalist he claims to follow (Cassius Hemina), Pliny the Elder (*c.*24–79 ad) left an account of the same suicides and their punishment,[32] though this account does not, as Cassius Hemina does, specify the suicides were by hanging.[33] Servius' statement that Tarquin inaugurated a Roman suicide taboo is even harder to verify. Indeed, more than that, it confronts a baffling absence of any other Roman example of the crucifixion of a suicide, not to mention a legendary haze that hangs round everything to do with Tarquin. One possible reading of the Tarquin story is that the crucifixion was his *ad hoc* invention for frightening recalcitrant labourers. Whatever the truth of that, the passage keeps a certain mystery.

To return to the commentary. Servius goes on by citing yet another old antiquarian, Varro. Varro was the most prolific of Roman authors, with a reputed 600 books to his name by the time he died in 27 bc. The two or three that survive endorse his credibility about Roman popular ritual, and hence lend authority to the following allusion by Servius:

And Varro says that *suspendiosi*, whom it was not right to treat with the usual dignity, should have their part in the Parentalia by the suspension of puppets [*oscilla*], as if in imitation of their death.[34]

This sentence, with its reference to the February Parentalia festival, has excited most academic discussion of all. What does it mean? The word *oscillum* can mean puppet or mask, but the question remains why the puppets (or masks) were so used. In a separate commentary on Virgil's *Georgics*, Servius quotes Varro again as explaining that *oscilla* were a 'very powerful method of purification'.[35] In other words, *suspendiosi* were understood in the first cen-

[31] Servius, ibid., pp. 626.23–6: 'Cassius autem Hemina ait, Tarquinium Superbum, cum cloacas populum facere coegisset, et ob hanc iniuriam multi se suspendio necarent, iussisse corpora eorum cruci affigi. Tunc primum turpe habitum est mortem sibi consciscere.' Cf. Grisé, *Le suicide*, 127–9; Voisin, 'Pendus', esp. 424, 445–50; Desideri, 'Trattamento', 192–3.

[32] *Hist. naturalis*, bk 36, ch. 24.

[33] An omission noticed by Desideri, 'Trattamento' (see n. 18), 192.

[34] Servius, ibid. [continuing]: 'Et Varro ait, suspendiosis, quibus iusta fieri ius non sit, suspensis oscillis, veluti per imitationem mortis parentari.'

[35] *In Georgicon*, bk 2, line 389; ed. G. Thilo and H. Hagen (see n. 27), vol. 3 (Leipzig, 1887), 253–4, esp. 254.9–15: 'Prudentioribus tamen aliud placet, qui dicunt sacra liberi patris ad purgationem animae pertinere . . . et nunc per oscilla genus purgationis, quod est maximum, intelligamus.' Cf. Grisé, *Le suicide*, 148, n. 107.

tury bc, by a leading authority on contemporary ethnology, as having died *im*purely. This leaves on one side whether the ritual Varro describes began with that significance, as distinct from having originated in a form of a human sacrifice whose meaning had been forgotten by Varro's time. All that matters to us is that a well-informed witness of the first century bc said *suspendiosi* were thought to need purification.

Further progress therefore depends on our discovering what this word *suspendiosus* was supposed to mean. Earlier we looked briefly at its meaning in medieval Latin; now we face the harder question of its meaning in Roman antiquity. The word comes from *suspendere*, 'to hang' (transitive), and is a variant on its past participle, *suspensus* (the word used of Judas by Jerome with such effect).[36] The ending *-iosus* was pejorative. So a direct translation of *suspendiosus* might be 'the hanged wretch', fitting Servius' contention that such a man was cursed. If we are to use the word as a guide to suicide taboos, we nevertheless need a more precise definition, and three possible meanings can be distinguished. *Suspendiosus* could in principle mean, first, the person hanged by any agency; second, a person *self*-hanged; or third, one who has killed himself by any means, alias a suicide as such.

A look at Servius' own text shows he hovers between the second and third meanings. His commentary has begun, as quoted just now, with an allusion to the alternative tradition—to add to suicide's many split traditions—that Queen Amata had died by self-starvation, not self-hanging. The commentator sympathizes with readers who favour the self-starvation theory because, he implies, it would have the effect of clearing Amata's memory from the stigma of having killed herself with a noose, a *mors infamissima* inappropriate to a queen of Latium. That implies the second of our three meanings. But Servius goes on, straight after telling of Tarquin's crucifixion of self-hanged labourers, to say that what was then, in Tarquin's time, first considered shameful was *mortem sibi consiscere*, that is, to commit suicide in any way at all. That is the third of our three meanings. Servius' use of the word must be adjudged equivocal. It would *bear* a suicidal reading throughout, but does not always have to.

Earlier we heard a Roman lawyer in twelfth- (or early thirteenth-) century Italy define *suspendiosus* as the suicide by any means. At a time when all dictionary definitions were growing more precise this lawyer, the author of *Liber iuris florentinus*, referred to the 'suspendiosus, id est qui se suspendit vel alias sibi manum inieci [the *suspendiosus*, that is, the man who hangs himself or kills himself in some other way]'.[37] A corresponding medieval definition was

[36] Above, p. 338.

[37] *Liber iuris florentinus*, ed. M. Conrat, *Das florentiner Rechtsbuch* (Berlin, 1882), 55.1–2. The text is referring to a widow's obligation to let an interval elapse before a second marriage, 'nisi per indulgentiam principis, vel nisi peperit medio tempore vel nisi vir eius indignus fuerit lugeri, ut suspendiosus, id est qui se suspendit vel alias sibi manum iniecit.'

documented for the word '*suspendium*' as 'hanging *oneself*'.[38] I shall refer in a moment to some ancient Roman texts which support this medieval reading of the word, but turn first to the question whether anyone in the Roman world used it in the *first* of its three possible meanings, that is, simply as a person hanged by any agency.

The implications of this question go far beyond the interpretation of Servius' commentary. Servius, after all, wrote in the fourth or fifth century ad, when both Christian and pagan philosopy had turned against suicide. His apparent view that it was *self*-hanging that drew a curse, not the mere method of death, may have reflected a late Roman's reinterpretation of his ancient sources. Classical historians have battled over this question with an expertise in ancient Latin philology not readily available to anyone outside their circles. But even the latter should be able to follow a logical argument, and medieval usage may itself prove relevant to the classical debate. So, after stating the main features of the debate, I propose to draw two considerations to bear on it from a more general study of medieval Europe.

The motion under debate is that a curse lay on hanging as a method of death. The rationale alleged for this curse is partly that hanging distorted the facial features, especially the windpipe—conduit of the breath of life—and partly that it raised the body above mother earth—source of life—just as crucifixion did (that other kind of 'hanging on a tree'). Consequently, it is argued, the fact that a death by hanging happened to be suicide had nothing to do with the curse on it, since it was the method, not the agency, that was cursed. On the other side of the debate, it is alleged that hanging was the method of suicide predominantly chosen by the poor of the Roman world, and that since hanging by a noose, the primary meaning of 'hanging on a tree', was not a Roman criminal punishment, anyone found hanged by a noose was probably a poor person who had committed suicide, a '[self-]hanged wretch' *par excellence*.

One precondition of this particular oscillation, it may have been guessed already, is that Roman mental habits, as expressed in what writers chose to write about, normally ignored the vast majority of the population. This circumstance, familiar to Roman historians hungry for information about the poor, had its apotheosis in Auerbach's famous *Mimesis*, where it was found a peculiarity distinctive of Roman literature.[39] Part of the question is therefore

[38] Cf. Caesarius of Heisterbach, *Dial. mir.*, dist. 3, ch. 14 [vol. 1, p. 129]; and pp. 432, 439 above.

[39] E. Auerbach, *Mimesis* (Princeton, NJ, 1953), 24–49; its effect on our knowledge of Roman suicide noted by M. Griffin, 'Philosophy, Cato, and Roman suicide', *Greece and Rome*, 33 (1986), 64–77, 192–202, on pp. 199–200. While following Dr Griffin in supposing the presence in the Roman world of an archaic suicide taboo (ibid., 192, 194–5), as indeed—inescapably—in her judgements on Roman philosophers, the argument in my text should make clear my departure from her acceptance of Grisé's view (defended further by the authors named in n. 18 above)

whether the poor really did prefer hanging as their suicide method, or avoided it like everyone else because it was cursed. Estimates based on literary sources have allowed hanging a very small place among methods of all known Roman suicides, namely between $1^1/_2$ per cent and 10 per cent, contrasting with an alleged 30 per cent in the Greek world.[40] Then again—say the opposition—on the rare occasions when suicide among slaves or the poor *is* referred to (as happens quite often in comedies by Plautus and in a handful of other writers), the noose is clearly what the 'wretches' think of first.[41]

A cautious non-classicist will keep his distance from certain details of this dispute. But there are two points at which the study of medieval suicide can contribute to it: first, touching the rationale of the supposed curse; second, on the question whether hanging was the preferred method of the poor. At the cost of a quick, inevitable, there-and-back journey in the historian's time machine it will be useful to break this exploration of antiquity by a short visit home to the Middle Ages, for comparison's sake.

First, as to the rationale of the curse. In medieval Italy, hanging as such was still considered disgraceful by the standard townsmen. They did not use it in executions and thought northerners barbaric for doing so.[42] None of that, however, stopped peasants in the rural outback from hanging themselves, for we found in the previous volume that when we did find a peasant hanging himself, in the otherwise black hole of rural Italy, our account describes the event as distressing indeed, but not particularly so by reason of its method, and certainly not unknown in the tiny peasant community where it happened. (The body looked 'just as dead people look when they have been hanged'.)[43] Since the rural outback in Roman times is an even blacker hole we may hazard our own conclusions from that medieval example, about whether such a curse had much effect in limiting peasant suicides.

More generally, among lessons from the Middle Ages, it should be remembered that suicide *qua* suicide was under a curse then, and a severe one, but that did not stop people committing suicide, whatever reduction it may have made on the rate. It can only be concluded that the people who killed themselves then had more urgent preoccupations than to care whether they were cursed. The same may have been true in antiquity. Supernatural anxieties

that the old taboo against the hanged was not largely occasioned (in fact, if not in a precisely defined perception among rustic contemporaries) by suicide. See Griffin, ibid, 192, 200 n. 1, and the same author's review of Grisé in *Gnomon*, 57 (1985), 437–40, on p. 438.

[40] F.-L. Voisin, 'Le suicide d'Amata', *Revue des Études Latines*, 57 (1979), 254–66, on p. 259; Desideri, 'Trattamento', 194–5.

[41] Grisé, *Le suicide*, 108–9.

[42] e.g. Giordano of Rivalto, Morning sermon of 3 March 1306, *Quaresimale Fiorentino*, ed., C. Delcorno (Florence, 1974), 160.13–161.4.

[43] *The Violent against Themselves*, 246, quoting *Il processo per la canonizzazione di S. Nicola di Tolentino*, ed. N. Occhioni (Rome, 1984), 279.35.

about windpipes and earth were more likely to weigh among those at their last extremity. In any case, other methods of suicide, besides hanging, then as now, distort the facial features and destroy windpipes. As for the supposed disgrace of abstraction from mother earth, the Romans did not impose it on all guilty persons, for some dead criminals in Rome had the privilege of being dragged *along* mother earth, while yet others—notably Vestal Virgins who committed the one offence they were maintained to avoid—could be buried alive.[44]

Medieval experience, then, drawn from an age as or more religious than the pagan Roman, counsels caution in any estimate of how far a rationale of this kind took effect. What we *can* be more confident about, from medieval experience, are the fundamental psychological structures charted earlier (in Chapter 13) with respect, especially, to the method-mindedness of suicide law. In the Middle Ages, it will be recalled, there were two reasons for avoiding too precise a definition of suicide: one, a taboo on suicide, the other, a failure of law in general to define an act by intention. Of course, if there never had been any Roman taboo on suicide even among the poorest of the population, then the first of these reasons would not have applied then. But the second remains strong enough. Take Roman ghosts. If we are to believe the remark I quoted earlier from the philosopher Porphyry—a source unused, to my knowledge, by any of the debaters on Roman suicide—that suicides in the second century ad became ghosts, then they did so—to judge by everything else we know of Roman ghosts—in a company defined by a mixed assembly of criteria, the mixture made up of the method, the moment, and the occasion of a person's death (much the same categories, in fact, as are documented for post-medieval ghosts). These main categories of Roman ghost were infants who had died on or just after birth (the question whether they were baptized or not being apparently a late arrival and essentially irrelevant); persons dying on or near a rite of passage like marriage or childbirth; executed criminals (especially if mutilated); and finally *biaiothanatoi*, the 'violently dead', by any means—or almost any: in ancient Rome a handful of favoured forms of violent death, for instance, being struck by lightning or killed in battle, were seen as divinizing the person they happened to.[45] Others committed a soul to wandering, and suicides were among these. Any curse specific to suicide was therefore hidden, as we have surmised it to be in the less canonistically minded

[44] E. Jobbé-Duval, 'Les morts malfaisants: *larvae*, *lemures*, d'après le droit et les croyances populaires des romains', *Revue historique de droit français et étranger*, 4th series, vol. 2 (1923), 344–84 and 554–96; on pp. 580 and 579 respectively. These categories are ignored by Voisin or Desideri, with good reason.

[45] Jobbé-Duval, 'Les morts malfaisants', 344–84 and 554–96, on pp. 573–6; E. Nardi, *Case 'infestate da spiriti' e diritto romano e moderno*. Seminario Giuridico della Università di Bologna, 25 (Milan, 1960), 121–73, esp. 138–9, n. 45; cf. Lecouteux, *Fantômes et revenants*, 52–3; Schmitt, *Revenants*, 31–2; and (for *biaiothanatoi*) above, 474–6.

parts of medieval society, in the wider malediction of many deaths externally comparable but lacking what we, today, would see as the essence of suicide, namely intention. The curse is there, for all that, if documented in this instance not by peculiar burial but by belief about ghosts (which may, of course, have implied peculiar burial ritual, but the latter is not in this particular piece of evidence).

The curse is there particularly behind one of the *biaiothanatos* deaths: hanging. In the third volume of *Suicide in the Middle Ages* I hope to look at the images of suicide chosen by medieval artists and sculptors. It will be discovered then that the artists chose two images above all to convey suicide instantly to an onlooker: the hanged person, and the self-stabber. These were an artist's obvious choices, conveying as they did vivid images which no viewer could mistake, or at least, could not mistake if other circumstances were right. I shall also show that in France, for the hanged figure, circumstances were wrong, because in France hanging was regularly used as a punishment for ordinary criminals, so a hanged person looked like a hanged person as such, not necessarily a suicide, and partly for this reason, French allegorical sculpture settled for the self-stabber, who after *c.*1200 came regularly to represent suicide (alias 'Despair') on Gothic cathedrals. In Italy circumstances were different, since hanging was not used as a criminal punishment, so the artist was freer, and that, again, is a reason why in Padua's famous Arena chapel Giotto chose a hanged woman for his famous allegory of Despair: he did not show her in the act of hanging herself up; she was simply hanged; no one else could have done it.

That contrast will be elaborated later, but is of relevance now. The considerations that moved medieval artists were from one angle identical to those which had unconsciously shaped primitive vocabulary long before. In antiquity, in the same way as it was to do for Giotto, the image of the hanged person stood in people's minds *for* suicide. The early representations of Judas (as in the Frontispiece to this volume) did not invent the image, they only took it up. Long before Judas people had recognized the image of the hanged man and could not forget it. Indeed, if Judas' 'suicide' was (as I argued as a possibility in Chapter 10) a detail added to his history posthumously, then the present consideration suggests why it should have been hanging, in particular, that was ascribed to him (after all, no one suggested Judas had drowned himself, or jumped from the top of the Temple). The *suspendiosus*, hanged by a rope, was a vivid, natural symbol.[46] Since there were not many ways a person could have arrived at this position other than by

[46] Cf. D. Daube, 'The linguistics of suicide' [as on p. 440, n. 48], esp. 400–3. Although Daube does not discuss the word *suspendiosus* he emphasizes the generative role of the mental image. For the analogous genesis of the Arabic word *intihā*, see pp. 553–4, below.

suicide it remains possible that *suspendiosus*, long before Servius, had had this meaning.

Medieval considerations have here been imported to throw light on the psychology behind a classical term, hence on its meaning. Classical historians opposed to the suicidal reading of the word *suspendiosus* point to the paucity of Roman hanged suicides, and discount the objection that peasantry—who formed an even larger majority of the population than in the European Middle Ages—may have made up numbers without being recorded. Now classical Roman statistics in these matters are even worse than medieval, which means they are very bad indeed. They are much *too* bad, I venture to suggest, to endorse any allegation that 'under 10 per cent' of all Roman suicides were by hanging. This is where our present brief excursion in the time-machine can help, by putting Roman data in the context of later statistical efforts. Let me overshoot the Middle Ages and start as far forward as the nineteenth and twentieth centuries, when really respectable statistics are possible. In nineteenth-century Europe we find that hanging was commoner for rural suicides than for urban by a factor of sometimes as much as four: that is an estimate for late nineteenth-century Italy (though the differential is less sharp elsewhere).[47] Outside Europe, among some purely agricultural peoples—less urbanized, that is, even than Roman Europe—peoples whose rural way of life has survived to be subject to twentieth-century statisticians (as that of Roman peasants has not), the preponderance of hanging can be higher still: figures up to 94 per cent (of the self-hanged as a percentage of all suicides) have been recorded among some East African peoples.[48] Adjusted to take account of the rural preponderance of the Roman population—all of it, like Italy in our medieval researches, a black hole—these proportions could radically change classical historians' estimates.

These relatively modern findings invite the question whether our own medieval quasi-statistics, much more jejune than those, throw light on the same questions. The previous volume showed that English suicides recorded in judicial rolls were of different social categories according to the different classes of roll, and since the rolls often mentioned a suicide's method, this fact allowed the release of a *ballon d'essai* on the question whether methods differed according to levels of wealth. We tried, there, to analyse methods from coroners' rolls and from Westminster rolls respectively, and the findings were inconclusive. But let the question be taken further now on a particular front, in respect of hanging. If we bring into the reckoning the assessments of wealth provided by the Eyre rolls which survive in some quantity from the thirteenth

[47] M. Halbwachs, *Causes*, 35. Comparable modern documents are adduced in the same sense by Grisé, *Le suicide*, 108, n. 105.

[48] Notably the Gisu and Basoga. See below, pp. 537–8.

century, and add comparable coroners' rolls, we find that in both kinds taken together, hanging accounts for 47 per cent of suicides. That is, it is much the commonest method.[49] Whether or not beliefs about windpipes or earth had any reducing effect on this figure the sources do not say. But their wealth assessments do promise help with the question of peasants and non-peasants, for an analysis by social class suggests hanging was less a rich man's choice than that of his social inferiors. The Westminster rolls record only those suicide cases of men rich enough to justify a government inquisition, and there, hanging was chosen by only 32 per cent of suicides.[50] The same message is given by a distinction between sexes, medieval women being personally poorer than men. In the Eyre and coroners' rolls 58 per cent of women suicides chose the noose as against 42 per cent of men. (A separation off of the groups owning between 1*d* and £1 yields a similar result, with an above average figure of about 54 per cent for hanging.)

These figures may be far from decisive. But they are consistent, at least, with the hypothesis that hanging in the medieval English sample tended to go with lower levels of property. It also tended to go with peasant status. In the same set of coroners' and Eyre rolls, suicides definitely assignable to substantial towns show the preference for hanging was weaker in the town than in the country, coming down from that overall figure of 47 per cent to 44 per cent.[51] A slight difference, but reflecting equally the slight degree of urbanization present in medieval England. To summarize: medieval evidence *does* encourage the hypothesis, based on much more modern statistics, that hanging tended to find preference among the relatively poor and relatively rural.

These are the conclusions of our excursion in the time-machine which must now carry us back, with that much enlightenment, to the exploration begun earlier in this chapter. The résumé of classical Roman evidence, we recall, summoned six separate witnesses to throw light on the question posed: whether the denial of normal burial to suicides, mentioned by a sixth-century Iberian council as a rule already established, had antecedents in antiquity.

[49] *The Violent against Themselves*, 404–9. While the figures there printed do not analyse the data in this way the present calculation is based on the same set of findings, as set out in the relevant section of the Register on pp. 433–56.

[50] Ibid., yielding 8 out of 25 cases. The difference is large enough to neutralize the objection that the main rival to hanging, in these rolls, was drowning (privileged in the Westminster inquisitions because the inquisitions only arose where suicide was doubtful).

The analyses which follow are based on all 277 cases in the relevant sections of the Register of Volume I, including the 'latecomers' marked with an asterisk, omitted from the statistical exercises on pp. 404–9 (as well as assessed for wealth on a slightly different basis). The destitute (possessing less than one penny) seem, like the Westminster rich, to have gone for drowning (33% against 47% hanging), unless there is a distinction there too.

[51] Ibid. By 'substantial towns' I have understood Cambridge, London, Newcastle, Northampton, Norwich, Oxford, Southampton, Winchester, and York (producing together 18 cases).

These particular witnesses were not the only ones on the subject, but were picked as the least ambiguous. Others can be followed in the specialist literature, and more fruitfully for the lessons learned from these, especially in the reading of the problematic word *suspendiosus*. The gift of land for a cemetery, for instance, in the Roman republican period, can specifically exclude gladiators, usurers, and *suspendiosi*.[52] A comment by the first-century lawyer Neratius, later put in the *Digest*, treats *suspendiosi* as on a par with other accursed categories to be deprived of mourning, in association with those condemned for high treason, enemies, and those who have killed themselves *mala conscientia* (which means, let it be noted, that the word *suspendiosus* does not include this last category); as if Neratius the lawyer were already attending to the intention of suicide, as distinct from its method, but was still preserving an old generic curse on suicide-*biaiothanotoi* as such).[53] Other references can characterize self-hanging as horrendous but without mention of non-burial.[54] Superstitions relating to the magical power of a suicide's noose meanwhile resemble those found in post-medieval Europe, where the curse on suicide would be explicit: for instance, that the noose of a hanged man—in post-medieval Europe expressly that of a suicide—has medicinal power. Pliny (for example) said the noose of a *suspendiosus* could cure headaches.[55]

The distinction between Roman and Greek practice, in a Mediterranean world to which both contributed, is not always precise. With that reservation let me now make the distinction and turn to consider what hard evidence there is on the same subject from the Greek world. It has to be 'hard' evidence, because the evidence would be richer still if references in classical Greek poetry and drama were included,[56] but their historical meaning is too uncertain, so I shall concentrate on references with some claim to be factual. Their quality allows them to be grouped thematically.

Greece

Of Greek witnesses to a suicide taboo, the first group alludes to the punishment of suicide by the loss of name and identity.

Loss of identity

The doctrines of Plato and Aristotle on suicide were identified in Chapter 4. Both philosophers formulated these doctrines in the knowledge of how

[52] Grisé, *Le suicide*, 143. [53] Ibid., 145, n. 95.
[54] Ibid., 144–5; for the endurance of the curse on *suspendiosi*, ibid., 146 and n. 99.
[55] *Hist. naturalis*, bk 28, ch. 41; Voisin, 'Pendus', 443; Baechtold-Stäubli, *Handwörterbuch*, vol. 7, col. 1633. [56] Van Hooff, *From Autothanasia to Suicide*, 143–8.

people actually behaved, but they employed their knowledge differently, Aristotle for the most part directly, Plato less so. In *The Laws*, Plato used his knowledge of Greek custom to shape details of a utopian city. We know this partly because the arbitrary character of the details tells against their having been thought up by a philosopher, and partly because some are known through other historical sources. Plato's treatment of suicides involves a detail of this kind. In Book IX of *The Laws*, he decrees that certain suicides be buried disgracefully:

> The place of burial of those destroyed in this way shall be, first, in an isolated position with not a single other burial anywhere near. Furthermore, they shall be buried without honour in those borders of the twelve districts which are barren and unidentified, with neither monument nor name to indicate where they are buried.[57]

The 'twelve districts' divided both Athens and its territory radially, like the hours on a clock. The further from Athens their boundaries were, the less likely they were to be cultivated.

Besides Plato's known literary habits, there are two grounds for believing his prescription about suicides reflected a contemporary custom. One is internal. Like Quintilian, Plato the philosopher is not at ease with the law to which he refers. It is true we heard Plato's Socrates say, in the *Phaedo*, that suicide was 'unlawful' or 'unholy',[58] but Socrates also said the law on the subject was mysterious and not known to everyone. Even if it had been generally known, that doctrine would not, on its own, have led to the particular burial sanctions proposed in *The Laws*. According to these, the burial must be isolated from the city and from other burials, and above all, the suicide must lose his name and identification. None of that follows necessarily from Socrates' Pythagorean belief that suicide is unlawful or unholy.

The burial rules thus described not only fail to follow from Plato's philosophical position, they actually cause it difficulties. The most obvious difficulty is the familiar one of spotting an occasion for sanctions. The Plato of *The Laws* wants to punish some, but not all, suicides, and Plato makes the distinction uneasily. The sort to be punished, he says, is that man who kills himself

> not because the law of the state requires him, nor yet under the compulsion of some painful and inescapable misfortune which has come upon him, nor because he has had to suffer from irremediable and intolerable shame, but who from sloth or unmanly cowardice does unjust justice upon himself.[59]

[57] *Laws*, 873C–D [bk 9, ch. 49]: '*τάφους δ' εἶναι τοῖς οὕτω φθαρεῖσι πρῶτον μὲν κατὰ μόνας μηδὲ μεθ' ἑνὸς ξυντάφου, εἶτα ἐν τοῖς τῶν δώδεκα ὁρίοισι μερῶν τῶν ὅσα ἀργὰ καὶ ἀνώνυμα, θάπτειν ἀκλεεῖς αὐτούς, μήτε στήλαις μήτε ὀνόμασι δηλοῦντας τοὺς τάφους.*'

[58] 61 c 10; 61 e 5; see above, pp. 123–4.

[59] Ibid., 873C: '*μήτε πόλεως ταξάσης δίκῃ, μήτε περιωδύνῳ ἀφύκτῳ προσπεσούσῃ*

The force of the sanctions, in other words, falls only on those who act from 'sloth or unmanly cowardice [*argia kai anandrias deilia*]'. It is no use asking what Plato means by these categories since they are not conceptually precise. The philosopher has been rendered imprecise, as philosophers sometimes are, by embarrassment at his own incoherence. For Plato is trying here to be two things at once: to be fair and reasonable on one hand, and on the other, simultaneously, respectful of traditions which may *not* be fair and reasonable. Roman lawyers were earlier shown to have been in the same position as they tried, long and hard, to define ways in which the guilty suicide could be distinguished from the innocent, and in the end they failed. In the face of the same problem Plato does not even try. In *The Laws* it is the philosopher's turn to show sloth and unmanly cowardice, for he skirts the problem, saying that the right thing to do in a particular case is

> known to God; the relations must seek guidance from expounders and the relevant laws, and act in these instances according to their instructions.[60]

Plato may well have had his own, Pythagorean reasons for aversion to suicide, on top of his general aversion to sloth and unmanly cowardice. But the paragraph in which he alludes to these sanctions is largely devoted to saying to whom the sanctions do *not* apply, as if the philosopher is trying to diminish the application of a law punishing suicides but dares not abolish the law itself. (We shall see a striking analogue, a few centuries later, among Jewish rabbis.) Plato stands half-in and half-out of a world ruled by pollution taboos and hence, not quite intentionally, leaves us a record of it.

There is a second additional reason for believing a custom may lie behind this passage in *The Laws*. The passage is not alone. Other testimony survives from the Greek world, far beyond Plato, of funerary peculiarities for suicides. It may be appropriate to take at this point two further witnesses to the most striking peculiarity of Plato's prescription, the suicide's loss of his name. The witnesses here are Plutarch and Artemidorus. Plutarch wrote his famous *Lives* at the end of the first century ad, using his library to cover the previous four—and more (he goes back to the legendary Theseus). In the *Life of*

τύχη ἀναγκασθείς, μηδὲ αἰσχύνης τινὸς ἀπόρου καὶ ἀβίου μεταλαχών, ἀργίᾳ δὲ καὶ ἀνανδρίας δειλίᾳ ἑαυτῷ δίκην ἄδικον ἐπιθῇ.'

[60] Ibid., 873D: '*ἄλλα θεὸς οἶδεν ἃ χρὴ νόμιμα γίγνεσθαι περὶ καθαρμούς τε καὶ ταφάς, ὧν ἐξηγητάς τε ἅμα καὶ τοὺς περὶ ταῦτα νόμους ἐπανερομένους χρὴ τοὺς ἐγγύτατα γένει ποιεῖν αὐτοῖσι κατὰ τὰ προσταττόμενα.*' Plato's ambiguities are identified, though interpreted in quite a different sense, by J. M. Cooper, 'Greek philosophers on euthanasia and suicide', in Brody, ed., *Suicide and Euthanasia*, 9–37, on pp. 14–19.

Antony, Plutarch mentions the notorious misanthrope Timon of Athens, who had died in Plato's youth. The account mentions the inscription on Timon's tomb, an inscription allegedly written by Timon himself, whose wording is generally thought to suggest suicide. It ran:

> I have broken off my unhappy life and here I lie. But you shall not know my name nor escape my curses.[61]

Plutarch's reference adds that Timon was buried on a seashore. Again the European medievalist will read this with a light of his own, since Timon's burial is an anticipation, by nearly two millennia, of the medieval popular 'saint' Margaret, wrongly buried as a suicide on the northern German shore in the thirteenth century (as also of a French woman buried in 1266 in the *sablons* on the Ste Geneviève estate near Paris). Corpses thus buried, on remote shores, tend to get lost and be forgotten unless miracles raise the alert—as they did for the medieval Margaret. Something like this allegedly happened to the ancient Greek Timon, for Plutarch says erosion caused the sea to come up round Timon's tomb and render it inaccessible.[62]

The suicide of Timon is just too uncertain, and the evidence too oblique, to make that evidence on its own more cogent than most of the other testimonies, each taken on *its* own. But the Timon text is not alone. A year or two after Plutarch wrote his *Lives*, Artemidorus (who lived and worked on the Aegean coast of Asia Minor opposite Athens) compiled an encyclopaedic *Book of Dreams*. It affected to interpret dreams, including those which foretold the future. One case was of a man who dreamed he had lost his name, and Artemidorus' interpretation of this dream included a clear connection between that circumstance and suicide. For the dreamer in due course, some time after the dream, lost his son, the future bearer of his name. Then he was himself outlawed and exiled with the consequence that his good 'name' as citizen was lost. Finally, says Artemidorus, the man 'ended his own life by hanging, thus remaining without a name even after death'.[63] The story is told without explanation and with a rigorous correspondence between the three occasions which can lose a man his name. This can only suggest that, in the world for which Artemidorus wrote, suicides were commonly buried without commemoration.

The next testimony to be considered reveals two more positive marks of dishonour inflicted on suicides.

[61] *Antony*, ch. 70, §4: '*ἐνθάδ' ἀπορρήξας ψυχὴν βαρυδαίμονα κεῖμαι. / τοὔνομα δ' οὐ πεύσεσθε, κακοὶ δὲ κακῶς ἀπόλοισθε.*'

[62] *Antony*, §3; ibid. Cf. pp. 50–1 above.

[63] *Onirocriticon*, bk 1, ch. 4; ed. R. A. Pack, Teubner edn (Leipzig, 1963), 13, 7–8: '*ἄτιμός τε καὶ φυγὰς γενόμενος ἀναρτήσας ἑαυτὸν ἐτελεύτησε τὸν βίον, ὡς μηδὲ ἀποθανὼν ἔχειν ὄνομα.*'

Disgrace and mutilation

Aristotle's *Nicomachean Ethics* was probably written not many years after Plato's *Laws*. Although the relationship it depicts, between the writer's philosophy and his contemporary social world, is different from the corresponding relationship just witnessed with Plato, the two remain comparable. The three suicide passages in Aristotle's *Ethics* were presented in Chapter 4. There, it was the philosopher's influence on medieval doctrine that was at issue, here, it is what they show about ancient Greek practice. So all I shall do here is repeat (now straight from the Greek text rather than from medieval Latin translations) the passage alluding to contemporary punishments for suicide, and add a word of my own comment. The allusion is in Book V of the *Ethics*, where its function is to help demonstrate Aristotle's contention that suicide involves injustice to the community or *polis*. Having explained why it does cause such harm, Aristotle brings in contemporary practice as an ally: 'That is why [he says] the *polis* exacts a punishment, and a certain disgrace is inflicted on one who kills himself, as having offended against the *polis*.'[64] Aristotle says 'a certain disgrace is present [*tis atimia prosesti*]', using a term (*atimia*) which in Athens implied social ostracism and a loss of civic rights, though he does not say exactly, in the present passage, how this particular *atimia* was expressed.

Scholars have interpreted the suicide doctrines of both Plato and Aristotle in contrary ways, each school emphasizing different passages, some more resolutely hostile to suicide and others more conditional and permissive. This modern academic disagreement can be turned into an index of the conditions in which the philosophers wrote, for it draws attention to the fact that each philosopher was inconsistent with himself, each, sometimes, apparently allowing *some* suicide, and at other times saying suicide as such was intrinsically wrong. The inconsistency teaches a lesson. When saying it was intrinsically wrong, both Plato and Aristotle referred to civic law for support. But neither did so, or could do so, when allowing *some* kinds of suicide, for the simple reason that at that point philosophy was all on its own and law did not support it. The asymmetry suggests one cause for equivocation in the philosophers' teaching. The teaching (it suggests) emerged within a matrix of anti-suicide custom. Benignly conservative as he was, Aristotle not only accepted what he understood to be the main Athenian social institutions, but paid them the tribute of supplying a rationale. In the *Politics* he would do exactly the same for slavery. In the *Ethics* he did it for suicide. This interpretation does not show Aristotle was right or wrong to do so, but it does show—

[64] *Nic. Eth.*, bk 5, ch. 11, §3: '*διὸ καὶ ἡ πόλις ζημιοῖ, καί τις ἀτιμία πρόσεστι τῷ ἑαυτὸν διαφθείραντι ὡς τὴν πόλιν ἀδικοῦντι.*'

if my reasoning is correct—that the custom of dishonourable suicide burial obtained in Aristotle's milieu, as one element in a matrix of social custom he was seeking, on one hand (as far as he could approve) to underpin with a rationalization, and on the other (as far as he could not approve) to outgrow. Most of us do the same, at least after middle age (as Aristotle certainly was when he wrote the *Ethics*).

This internal argument from Aristotle's own writing is buttressed again by external considerations. That is, other testimony survives of a disgrace that was imposed on suicides. The witnesses this time are the Athenian orator Aeschines, and the Jewish historian Josephus. In 330 bc Aeschines stood up to oppose the award of an honour to his rival Demosthenes, on the grounds that Demosthenes had done positive injury to the state. It was an important speech and Aeschines stood to lose a lot if it failed. Demosthenes, he declared, should not be honoured but rather *dis*honoured. After all, runs his criticism, when a metal or stone object has killed a man 'we cast it beyond the borders'; 'and when a man kills himself, the hand that did the deed is buried apart from the body.'[65] That which harms the *polis*, in other words (Aeschines is arguing), is customarily disgraced by being ejected from the *polis*. Since Aeschines was here affecting to deduce appropriate punishment for Demosthenes by analogy with current practice, he could have had no reason to invent the practice. If the latter had not been well known, the orator would have drawn his rhetoric down on his own head.

Four hundred years later, the detail is confirmed by the testimony of the Jewish historian Flavius Josephus, whose acquaintance we made when reconstructing the deaths of Pilate and Herod.[66] Josephus wrote in Rome between ad 70 and 79. In *The Jewish War*, after describing Jewish burial law for suicides, he adds: 'Among non-Jews, the custom is [literally 'they demanded'] that a suicide's right hand, with which he made war on himself, be cut off, on the tenet [*hegoumenoi*] that, as the body was separated from the soul, so should the hand be from the body.'[67] *Hegoumenoi*: 'holding that'. Josephus is providing the gentiles' law with another *post hoc* rationalization. Perhaps he learned of this explanation, with the custom, from the Greek assistants he is known to have employed when working under the Emperor Hadrian in Rome. That would mean that his reference to 'non-Jews' may mean the Greeks specifically (about whom Josephus' knowledge was particularly extensive), or

[65] *Against Ctesiphon*, §244: '*ἐάν τις αὑτὸν διαχρήσηται, τὴν χεῖρα τὴν τοῦτο πράξασαν χωρὶς τοῦ σώματος θάπτομεν.*' Hirzel, 264, n. 2, seeks to limit the application of this rule to suicide by stabbing, and hence to the military, but without other evidence than that presented here.

[66] See pp. 339–56 above.

[67] *The Jewish War*, bk 3, §378: '*παρ' ἑτέροις δὲ καὶ τὰς δεξιὰς τῶν τοιούτων νεκρῶν ἀποκόπτειν ἐκέλευσαν, αἷς ἐστρατεύσαντο καθ' ἑαυτῶν, ἡγούμενοι, καθάπερ τὸ σῶμα τῆς ψυχῆς ἀλλότριον, οὕτως καὶ τὴν χεῖρα τοῦ σώματος.*'

perhaps even merely the Athenians, though there is no need to be so restrictive. There is still less need because medieval Europe offers yet another, much later, reference to the same classical practice, and this time without any restriction at all. Let me recall it. Commenting on St Matthew's Gospel at the French monastery of Corbie in the ninth century, we saw, Christian of Stavelot would defend the canonical sanctions against suicide by reference to the practice of pagan antiquity, writing that suicide 'was so abhorrent to the ancient pagans that the hand which had done the deed was not buried in the normal way with the body'.[68] The phrase about the hand that 'did the deed' may suggest Christian was using Josephus as his source, and our knowledge of the Latin translations of Josephus makes this distantly possible though unlikely (and Christian did not read Greek). Or perhaps Christian was relying on some other work now lost, which itself may have drawn from Josephus or even Aeschines.[69] All that is possible. What is certain is that all three authors—Aeschines, Josephus, and the ninth-century Christian of Stavelot—treat the amputation of the hand as a custom well known in the ancient Mediterranean.

Plato's shameful burial rite; Aristotle's 'stigma'; the amputation of the corpse's hand: all three practices are attested by Athenian sources, as well as by others in some of their particulars. One last allusion has a peculiarly Athenian character. It comes in Plutarch's *Life of Themistocles*. Themistocles' career fell a clear century earlier than Aeschines' speech, in that he rose to prominence about 490 bc. Plutarch, or perhaps the literary source he was using, referred to the practice in question as contemporary with himself (Plutarch), so it must be assumed to allude to the first century ad, that is, not long after the composition of Josephus' *Jewish War*. Themistocles had forfeited popularity, Plutarch writes, by erecting a certain sanctuary near his house in the Athenian district of Melite, in 'the place where now the public executioners throw the bodies of those who have been executed, and carry the clothes and nooses of the [self-]hanged and [self-]destroyed'.[70] Since Plutarch has taken care to exclude from this passage the mention of suicides' corpses, as distinct from their clothes and nooses, we must infer that, then and there, the bodies of suicides were not disposed of in the same place as those of executed criminals. That leaves open the question where they *were* disposed of,

[68] *Expos. in Matth.*, ch. 43; *Pat.lat.*, 106. 1416. See above, pp. 36–7.

[69] R. R. Bolgar, *The Classical Heritage and its Beneficiaries* (Cambridge, 1954), 455, 462, 478, 518. Greek: B. Bischoff, *Mittelalterliche Studien*, vol. 2 (Stuttgart, 1967), 246–75, esp. 260–7.

[70] Plutarch, *Themistocles*, ch. 22, §2; ed. and transl. R. Flacelière and others (Paris, 1961), 127: '*κατεσκεύασεν ἐν* Μελίτῃ *τὸ ἱερὸν οἷ νῦν τὰ σώματα τῶν θανατουμένων οἱ δήμιοι προβάλλουσι καὶ τὰ ἱμάτια καὶ τοὺς βρόχους τῶν ἀπαγχομένων καὶ καθαιρεθέντων ἐκφέρουσιν*.' Van Hooff, *From Autothanasia to Suicide* 163, mistakenly includes suicides' bodies. With Flacelière I have treated '*ἀπαγχόμενος*' as equivalent to the Latin *suspendiosus*.

and two alternatives suggest themselves. Either (1) suicides received normal burial while their nooses and clothes did not; or (2) their bodies carried a curse so grievous—even worse than that on the body of a criminal—that they had to be removed further from the city.[71] The practice described in Plutarch's *Life of Themistocles*, on this interpretation, would be consistent with that described earlier by Plato.

Three remaining allusions to the posthumous treatment of suicide in the Greek world concern places other than Athens. The sophist Zenobius, early in the second century ad, made a compilation of proverbs. In glossing one of them he attributed to both Plato and Aristotle the assertion that the inhabitants of Thebes (Athens's unpredictable neighbour and occasional rival, thirty miles to the north-west) denied honour to suicides. The entry is problematic. Zenobius starts with the proverb: *Why I do not hang myself: so that the Thebans may have a hero* and comments:

> Plato recalls this in the *Menelaus*: they say that in Thebes, people who killed themselves were denied all honour. And Aristotle says the same of the Thebans, that they did not honour those who became suicides. Therefore the phrase quoted, *so that the Thebans may have a hero*, is used as a euphemism.[72]

The least of the problems here is that the 'Plato' referred to was not the philosopher but another Athenian Plato who wrote plays, no text of any of which survives, any more than any does of the Aristotelian work Zenobius almost certainly had in mind, on city-state constitutions (with a section on Thebes). The only problem now is what the two authors can have meant. That *only* the Thebans dishonour suicides? That reading would clash with what we have learned about Athenian practice (from Aristotle and the philosopher Plato among others). Some sense can be made of this contradiction if the proverb is understood to stem originally from a Theban. A Theban, confronted (in battle, say) with the choice of suicide, might refuse it in favour of another death so that the Thebans might have reason to honour his memory. He would name 'Thebans' naturally as his fellow men, without implying any exclusion of others. If Plato then 'recalled' the utterance in a play called *Menelaus*, he might have added a gloss about Thebans, again without excluding anyone else (because it would only have been Thebans that were at issue at that point). Zenobius, for his part, would look up the section on 'Thebes' in

[71] Thus Hirzel, 'Der Selbstmord', pt 2, 265, n. 5.

[72] *Centuria*, bk 6, ch. 17; ed. E. L. Lentsch and F. G. Scheidewin, *Corpus paromiographorum graecorum*, vol. 1 (Hildesheim, 1958), 166.17–5: '*Τί οὐχ ἀπήγξω, ἵνα Θήβησιν ἥρως γένῃ: ταύτης Πλάτων ἐν Μενέλεῳ μέμνηται. Φασὶ δέ, ὅτι ἐν Θήβαις οἱ ἑαυτοὺς ἀναιροῦντες οὐδεμιᾶς τιμῆς μετεῖχον. Καὶ ᾽ Αριστοτέλης δέ φησι περὶ Θηβαίων τὸ αὐτὸ τοῦτο, ὅτι τοὺς αὐτόχειρας ἑαυτῶν γινομένους οὐχ ἐτίμων ιὸ οὖν, Ἵνα ἥρως γένῃ, κατ᾽ εὐφημισμὸν εἴρηται.*' Cf. Hirzel, 'Der Selbstmord' pt 2, 268, n. 2.

Aristotle's *Constitutions*, and find Plato's remark confirmed (again, in respect of Thebans because they enjoyed a separate section in that work). On this reading, the passage need not imply that the non-honouring of suicides was peculiar to Thebes. The reading is not without its difficulties, but would provide one possible explanation for what remains, on any reading, a puzzling passage.[73]

The next example is from Kos. This Aegean island, near the Anatolian coast (different from Ceos, mentioned earlier in this chapter), provides the only direct proof from the Greek world of a written law to punish suicides. The law is engraved on a stele (or inscribed stone pillar) dated by most archaeologists to the half-century 300–250 bc. It reads:

> If anyone in any village hangs himself with a rope, let the first person who sees him release the corpse and cover it with a cloak, and let him cut down the branch [or beam] from which he hanged himself, carry it away and burn it together with the rope, and if a priest sees [it] let him exhort the first person who comes up to do the aforesaid things.[74]

Practices designed to protect the purity of a priest are found variously both in Kos and elsewhere.[75] The notion that a curse attached to a tree or branch from which a man had hanged himself recalls the *oscilla* of the Roman Parentalia. A more precise reference to such a curse is found in a story about the philosopher Diogenes. As a Cynic, it will be remembered, Diogenes deliberately flouted convention, so that things normally 'not done' Diogenes did, precisely because they were 'not done'. The stories that circulated about Diogenes hence have the paradoxical effect of revealing what the conventions were. One told how, when the famous Cynic was picking fruit from a fig tree, the keeper pointed out that a man had recently hanged himself on that very tree. Diogenes replied: 'Then I shall purify it,' that is, by eating the fruit. This remark can have no other meaning, in the present context, than that the tree on which a man had hanged himself was normally seen as *im*pure.[76]

[73] Not least in its identification of the end of proverb as a euphemism. For what? The addition of a question mark (;) might have made it an *irony* ('Why should I not commit suicide and give the [contemptible] Thebans a [non-]hero?'). But *difficilior lectio praeferenda*.

[74] F. Sokolowski, ed., *Lois sacrés des cités grecques* (Paris, 1969), no. 154, p. 267, lines 33–6: '[*αἰ δέ τίς κα ἔν τινι δάμωι ἀπάγξηται σχοι*]*νιδίωι, ὁ ἰδὼν πράτιστον καταλυσά*-[*τω τὸν νεκρὸν καὶ εἵματι κατακαλυψάτω. τὸ*] *δὲ ξύλον ἐξ οὗ κα ἀπάγξηται, ἀπο*-[*ταμὼν ἐξενεικάτω καὶ κατακαυσάτω καὶ τ*]*ὸ σχοινίον ὁ ἰδών· αἰ δέ κα ἱερεὺς ἴδηι* [*τὸν παριόντα πράτιστον κελέσθω ταῦτα πο*]*ιεῖ ν*.'

[75] Cf. R. Parker, *Miasma: Pollution and Purification in Early Greek Religion* (Oxford, 1983), 52–3.

[76] Diogenes Laertius, *Lives*, bk 6, ch. 2, §61: '*ἀπὸ συκῆς ὠπώριζε· τοῦ δέ φυλάττοντος εἰπόντος, "αὐτόθεν πρώην ἄνθρωπος ἀπήγξατο," "ἐγὼ οὖν," φησίν, "αὐτὴν καθαρῶ."*' Cf. Parker, *Miasma*, 42, n. 37.

We owe the last of this group of peculiarly Greek examples to another rhetorician of the first century ad, Dio Chrysostom. In one of his model speeches, 'On Fortune', Dio refers to a queen of Cyprus called Demonassa who (in Dio's account) gave Cyprus three laws. One punished adultery; one forbade the killing of a plough-ox; and a third decreed that anyone who killed himself should be 'cast out unburied'. The Greek expression used there, *ataphon rhiptesthai* [*ἄταφον ῥίπτεσθαι*], is the direct equivalent of the Latin *insepultus abiceretur* quoted earlier from Seneca Rhetor and Quintilian. The rest of Dio's narrative tells how, some time after the publication of her laws, one of Demonassa's two sons was executed for killing a plough-ox, while the other killed himself, and was hence denied burial by his mother, the queen. Finally, moved to reflect on her condition by the analogous sight of a cow which was losing its own offspring, Demonassa melted a quantity of bronze and leapt into it.[77] The narrative value of the conclusion was to show that Demonassa herself remained thus 'unburied' by her own law. As a 'good story' it goes without saying that this is unlikely to be history. No other ancient source speaks of a 'Demonassa'. If the account were taken as containing any element of history, its message would be, we may suppose, that the law against the burial of suicides was an innovation as far as Cyprus was concerned, and datable to her reign. As it is, the anecdote may as well be another rationalization—a historical one this time as distinct from a philosophical one—of an existing custom.

About a dozen references to Greek custom have been considered. To them should be added, finally, a small but telling group of allusions to practice among the Jews.

The Jews

A number of Old Testament suicides were related in Chapter 3. None of the accounts there said anything of non-burial, and indeed one of them went on to say the suicides' remains *were* buried. Saul had fallen on his sword after defeat in battle, and his 'bones', after insulting treatment by the enemy, were recovered by his friends from Jabash-Gilead and respectfully buried 'under the oak in Jabesh' (I Chronicles 10: 12).[78] The Old Testament, in a word, offers no direct parallel to the non-burial of suicides in Greek law.

However, a parallel is suggested by quite another source, the Jewish historian Josephus.

[77] Dio Chrysostom, *Discourses*, no. 64, §3–4: The law (§ 3): '*τὸν αὐτὸν ἀποκτείναντα ἄταφον ῥίπτεσθαι· δεύτερος οὗτος Δημωνάσσης νόμος.*'

[78] See pp. 97 and 195 above.

Josephus

Josephus was quoted just now as witness to burial practice among non-Jews, but he also mentioned Jewish practice. His remarks need careful interpretation. It will be remembered that Josephus had survived the Roman suppression of Jews after the fall of Jerusalem in ad 70, won imperial favour under Titus, and spent much of the next thirty years writing the history of his people and of their struggles. His principal remarks on suicide, including that just quoted, come in *The Jewish War*. There he records a long speech allegedly made by himself during the Roman siege of Jotopata, a hillside fortress in Lower Galilee (now called Jefat). The speech was mainly devoted to declaring the illegitimacy of suicide. It raises a problem. The problem lies not just in the historical elasticity of all speeches recorded by Hellenistic historians—who commonly put into the mouths of historical characters, as if given on a particular occasion, words which really, in part or wholly, constituted the historian's own comment on the issues at stake. The problem lies rather in Josephus' personal predicament, and the bias it might have given his rhetoric. Some of the Jews who survived Jotopata claimed that Josephus had joined in a suicide pact with other Jews inside the fortress, by which they had agreed to kill themselves rather than submit to Rome. In the event, while most of the others had indeed killed themselves (in the well-known mass suicide at Massada), Josephus had made his peace with Rome and lived. He chose to pay his debt to Jewry not by killing himself but by writing its history. In the eyes of critics this alleged background gave Josephus' history the character of an *apologia pro vita sua*,[79] and this must apply, above all, to the speech Josephus recorded himself as making at the siege, condemning suicide on moral grounds.

Our present concern is not primarily with Josephus' personal integrity, or lack of it, only with the historical authority of a particular passage in the Jotopata speech. It is an authority not necessarily weakened by the question how far the speech was rhetorically slanted. Indeed, this consideration strengthens it: a rhetorican, after all, has to take special care not to allege facts for his case he knows could be challenged. In reading the passage we must also recall that Josephus had been born into a Jewish priestly family, was thoroughly grounded in Jewish law from infancy, had long been a priest by the

[79] The title and subject of a doctoral thesis by Cal Nelisse, '*Apologia pro vita sua*. Gedachten over zelfbehoud en zelfvernietiging in het werk van Flavius Josephus'. Doctoral thesis in Ancient History, Catholic University of Nijmegen (supervised by Dr A. L. J. van Hooff) 1989. See also Van Hooff, *From Autothanasia to Suicide*, 162–3 and 181. An otherwise well-documented survey of Josephus' attitudes to suicide, which nevertheless defends assumptions different from those upheld here (and mentions neither the passage I have quoted nor the findings of Cal Nelisse), is that of Droge and Tabor, *A Noble Death*, 86–96.

time he wrote, and counted himself a Pharisee, a member, that is, of the sect just then coming to the fore as guardians *par excellence* of Jewish tradition. He ought, for all these reasons and by every accessible criterion, to have known what he was talking about. It can be shown, I believe, beyond reasonable doubt, that he did.

At one point in the Jotopata speech Josephus corroborates his anti-suicide case by a reference to contemporary Jewish law. Having given various reasons why suicide is bad he adds this: 'That is why this crime, hateful to God, is also punished by the supremely wise law-giver. Among us [he means the Jews] it is ordained that the body of a someone who destroys himself should be exposed unburied until sunset, although it is thought right to bury even our enemies killed in war.'[80] The veracity of this remark is not easy to verify. Biblical books barely mention post-sunset burial among the Jews, and when they do, do not apply it to suicide. The book of Joshua (written perhaps in the ninth century bc and affecting to describe events three centuries earlier) mentions the post-sunset burial of slain enemies (Joshua 8: 29 and 10: 27), but not of suicides. No other surviving document, in fact, from before Josephus, mentions these particular burial rites. Thus Josephus' allusion stands largely on its own, and, given his rhetorical motivation, has incurred disbelief on that ground.

No *surviving* document confirms Josephus on this point, I have just said. But if we go back to the reflections which opened this chapter, about wavelengths and levels of law, we shall find cause to remember that it is not a surviving document we are looking for, but rather for a custom, more likely to have been unwritten. It happens that Jewish history, more particularly than Greek or Roman, offers an avenue for discovering customs precisely of this kind. The avenue is worth exploring.

Unwritten law

In the years between *c.*ad 70 and *c.*200, rabbis thought God had given Moses the Torah (law) in two forms, written and unwritten.[81] The written was what we now commonly call the Pentateuch, namely the first five books of the Bible. But with it (they said) had come an unwritten Torah, remembered and handed down orally from Moses' time, that is, for well over a thousand years (Moses being dated now to around 1250 bc). This must not be thought

[80] *Jewish War*, bk 3, §§376–7: '*διὰ τοῦτο μεμίσηται παρὰ θεῷ τοῦτο καὶ παρὰ τῷ σοφωτάτῳ κολάζεται νομοθέτῃ· τοὺς γοῦν ἀναιροῦντας ἑαυτοὺς παρὰ μὲν ἡμῖν μέχρις ἡλίου δύσεως ἀτάφους ἐκρίπτειν ἔκριναν, καίτοι καὶ πολεμίους θάπτειν θεμιτὸν ἡγούμενοι.*' I have changed the Loeb translation, 'the wisest legislator', of *σοφώτατος νομοθέτης*, to emphasize the variety of meanings which this mysterious expression could bear (*νομοθέτης* literally means 'the layer-down of law').

[81] M. D. Herr, 'Oral law', in *Encyclopedia Judaica* (Jerusalem, 1971), vol. 12, cols 1439–42.

impossible. There were other traditions of unwritten religious law, and the leaders in the field, the Hindu Vedas, claim a duration of at least twice that length.[82] But it is in the nature of unwritten law that it leaves no direct record of itself, as it is also in the nature of threatened groups to invent ancestral tradition 'bigger and better' than history would justify. So there is room for a measure of scepticism, and some has been voiced.[83] Just what measure is appropriate must be a question for experts, but what is not open to scepticism is the existence of *some* law other than that written in the Torah, and probably (if only to judge from analogous cultures) mainly unwritten. Let us consider the arguments. For one thing, written laws have always needed interpretation, and have normally accumulated a body of accepted interpretation which may well be unwritten. Equally telling, and *a posteriori* as distinct from that *a priori* approach, is that the very text of the Torah implies the existence of other law. For instance, the commandment 'Thou shalt not commit adultery' (Exodus 20: 14) presupposes laws on marriage, a subject on which the Torah itself says next to nothing (and a next to nothing, even then, that contains anomalies, likewise only explicable by reference to law outside the Torah: such as that it says Jacob married two sisters simultaneously in breach of the written law (Genesis 29: 16–30; cf. Leviticus 18: 18), but in harmony with a custom known elsewhere in the contemporary Near East).[84]

When we come forward to the first century bc, to the Pharisees, and learn from several sources that this highly self-conscious Jewish sect put special value on their knowledge of law *not* in the written books, it is taking scepticism too far to say that the rabbis of the Talmud, two or three centuries on, were just pulling from thin air the oral tradition they spoke of. Indeed, the conditions of Judaism in the Hellenistic age probably gave the Pharisees every ground for preferring unwritten law. As Greek language and culture spread throughout the Middle East after Alexander the Great's death (in 323 bc), God's chosen people found themselves heading for a dangerous melting-pot. Their written Torah had already been translated into Greek with the rest of the Old Testament, readable by anyone, and only that part of the law passed down orally in Hebrew could now guarantee Jewish identity.[85] A likely

[82] W. Bright, *Language Variation in Southern Asia* (New York and Oxford, 1990), 132–45, esp. 132–4, for a summary of the evidence and guide to other literature; more briefly in R. C. Zaehner, *Hinduism*, 2nd edn (Oxford, 1966), 15. For memory and the Muslim Hadith: J. Burton, *Introduction to the Hadith* (Edinburgh, 1994), 19–21, 24, 108–18, 123.

[83] Cf. L. L. Grabbe, *An Introduction to First Century Judaism: Jewish Religion and History in the Second Temple Period* (Edinburgh, 1996), 37–44.

[84] Pointed out by K. Schubert, 'Talmud', in *New Catholic Encyclopaedia*, vol. 13 (1967), 922–7, on p. 923, whose exposition of these issues I have found the most convincing.

[85] I follow Schubert, ibid., and the haggadic tradition recorded by a third-century rabbi that God had made his covenant with Israel 'for the sake of that which was transmitted orally'; that

hypothesis is that the quantity of oral law actually grew during this period, partly for this reason, and that its sheer quantity formed one factor that precipitated it gradually into writing, perhaps—though this area is more problematic still—contributing to the special status of those 'scribes' of the Gospels, as readers and writers of law.[86] But if growing quantity was one stimulus, a more powerful one was disaster, which struck decisively in ad 70 with the fall of Jerusalem to the Romans. One Pharasaic rabbi, Josephus, has already been seen reacting to his nation's calamity with the pen; by writing down its history to produce, at a stroke, the fullest surviving *corpus* of classical Greek historiography to come from one author. Others, even any who may have been critical of Josephus, did the same for law, on the same grounds: the loss of its law, as of its history, would have robbed the Jewish people of its identity. It was a fate far from unknown among their contemporary Near-Eastern neighbours and one which (if any Jews still doubted it might happen) the Emperor Hadrian wished on them with a still harsher dose of massacre and dispersal in ad 133.[87]

In the years between ad 70 and *c.*200, therefore, those whose task had hitherto been to teach the law orally, known by Hebraists by the tell-tale name *tannaïm* ('repeaters'), turned their efforts to writing the law down. The central collection resulting from their efforts, the Mishnah, was built up gradually in those years and would be completed very early in the third century, probably on the initiative of a single teacher. Since a principle of this compilation had been exclusivity, however, a second body of writings, likewise recorded by *tannaïm* and in the same type of Hebrew, at the same period and of virtually the same authority (in view of the destruction of Jewish books then and in the Middle Ages, the paucity of manuscripts surviving now has no bearing on religious or historical authority), were passed down as 'exclusions'. The word for 'exclusions' is *beraitot*. One of these *beraitot* happens to be about suicide. As may be guessed from that fact, it forms an invaluable gloss on Josephus' otherwise isolated testimony.

'thou mayest not write *halacoth*'; and that whereas 'the words which are written thou art not at liberty to say by heart', 'the words transmitted orally thou art not at liberty to recite by writing.' (*Gittin*, 60b, as in I. Epstein, trans., *The Babylonian Talmud* (London, 1936), vol. 15 [= Nashim VII].)

[86] Its problematic character set out, against many earlier writers (including Schubert), by C. Schams, *Jewish Scribes in the Second-Temple Period*. Journal for the Study of the Old Testament. Supplement Series, 291 (Sheffield, 1998), esp. 297–308.

[87] F. Millar, *The Roman Near East, 31 BC–AD 337* (Cambridge, Mass., 1993), 105–8, and 337–41. For vanished contemporary peoples see the index ibid., 577–85 under 'Ituraean', 'Nabataean', 'Palmyrene', etc.

Śĕmahoṯ

The book in question (one of the general class of *beraitot*) is today known as *Śĕmahoṯ*.[88] In a modern printed edition it runs to between 75 and 100 pages. Its title means 'Rejoicing' and is a euphemistic nickname, unknown before the eleventh century, for a book originally called *Evel rabbati*. That last phrase means *The Longer [Tractate on] Mourning*, and correctly describes the work. *Śĕmahoṯ* is virtually all about what to do after someone's death: how to bury the body, tell neighbours, pray, commemorate the dead, and so on. Modern scholars dispute the date of the treatise. Some put its final recension as late as the eighth century ad. But all agree that the latest authorities it cites are from the third century; that the language is that of the Mishnah (second and early third centuries); and that medieval Jewish scholars themselves unanimously treated *Śĕmahoṯ* as coming from the *tannaïm* (the 'repeaters' of Josephus' time and just after); in other words, that there is nothing *internal* to the book to date it later than the third century. That date is confidently espoused by some scholars (including *Śĕmahoṯ*'s latest translator). Even if that date were to be dislodged (and it would not be by much) there is no disputing that *Śĕmahoṯ* registers traditions passed down orally for many generations before they were written down.

Chapter 2 of *Śĕmahoṯ* concerns people who have died by one of the violent or premature deaths we have heard grouped together under the Greek term *biaiothanatoi* (*Śĕmahoṯ* itself could not be expected to use such an obviously pagan word). Their grouping together in one chapter is itself instructive. Of the twelve clauses in the chapter the first five are directly about suicide, four more are about execution (including by crucifixion), one is about what we now call accidental death, and one more about the death of 'one who has severed all ties with his people'. The remaining clause, number 12, seems—though we should never trust our modern categories too confidently—to be about something quite different, namely where and how divorcees are to live.

It is the first five clauses that matter most here, and it will be safest to quote them *in extenso*. Clause 1 begins: 'For a suicide, no rites whatever should be observed.' Since that is a difficult command (if taken literally), the text goes on to say what *should* be done, and quotes rabbis who have pronounced on the matter. The clause continues:

[88] Pronounced very approximately 'Shemahoth'. Dating and character: D. Zlotnik's introduction to his English translation, *The Tractate 'Mourning' (Śĕmahoṯ). (Regulations Relating to Death, Burial and Mourning)*. Yale Judaica series, no. 17 (New Haven and London, 1966), 1–9; slightly updated in the same author's contribution to *Encyclopedia Judaica* (Jerusalem, 1971), vol. 14, col. 1138. The Jewish war: Millar, *The Roman Near East*, 70–9. *Tannaïm*: *Encyclopedia Judaica*, vol. 15, cols 798–803. Talmud: Schubert (see n. 84), 922–7. Another translation of *Śĕmahoṯ* is in A. Cohen, *The Minor Tractates of the Talmud* (London, 1965), vol. 1 (of 2), pp. 325–400, ch. 2 being on pp. 330–8.

(1) Rabbi Ishmael said: 'He may be lamented: "Alas, misguided fool! Alas, misguided fool!" '

Whereupon Rabbi 'Ăkiba said to him: 'Leave him to his oblivion: Neither bless him, nor curse him!'

There may be no rending of clothes, no baring of shoulders, and no eulogizing for him. [It is clear from this and neighbouring texts that all these must have been normal practices for mourners.] But people should line up for him and the mourners' blessing should be recited over him, out of respect for the living. The general rule is: The public should participate in whatsoever is done out of respect for the living; it should not participate in whatsoever is done out of respect for the dead.[89]

From earlier in the present volume we can recall that Pope Nicholas I, in 866, made the same distinction between the living and dead by saying, a touch incongruously, that you could pray for a suicide if your intention was to comfort the living, but not if you wished it to do any good to the dead.[90]

While Clause 1 of *Śĕmahoṯ* thus lays down the rule, Clauses 2–5 define whom it applies to. The criteria are roughly those we recognize from medieval canon law. For the punishment to apply, the rabbis agree, a suicidal intention must be certain and there must be no mitigating circumstances. More conspicuously than medieval canon law, the suicide clauses of *Śĕmahoṯ* express a resolve to give borderline cases the benefit of any doubt. The facts, it says, must be known for sure and must indicate a culpable intention beyond reasonable doubt:

(2) Who is to be accounted a suicide? Not one who climbs to the top of a tree or to the top of a roof and falls to his death. Rather it is one who says, 'Behold, I am going to climb to the top of the tree,' or 'to the top of the roof, and then throw myself down to my death,' and thereupon others see him climb to the top of the tree or to the top of the roof and fall to his death. Such a one is presumed to be a suicide, and for such a person no rites whatsoever should be observed.[91]

The concept 'beyond reasonable doubt' could indeed be extended to *un*reasonable doubt. For *Śĕmahoṯ* applies the same presumption of innocence to those two most vivid of suicide images, of persons found hanging or impaled on a sword:

(3) If a person is found strangled hanging from a tree, or slain impaled on a sword, he is presumed to have taken his own life unwittingly; to such a person no rites whatsoever may be denied.[92]

In view of what was said earlier in this chapter about hanged persons being presumed to be self-hanged, the assumption made by this last clause is striking. To absolve the hanged man from the guilt of suicide the treatise does not,

[89] Zlotnik, *The Tractate 'Mourning'*, 33.
[90] See pp. 267–9 above.
[91] Zlotnik, *The Tractate 'Mourning'*, 33.
[92] Ibid.

apparently, think of saying it might be someone *else* who had hanged him, merely that, self-hanged as he unmistakably is, he must have done the deed unwittingly. All in all, in these two clauses, the onus of proving a man guilty of suicide is thus put emphatically on anyone who would apply the strict law to a particular case.

After stating the rule and then limiting its application strictly to deaths with suicidal intention—narrowly defined and verified beyond doubt—*Śĕmahot* goes on, in Clauses 4 and 5, to address the question of mitigating circumstances. It absolves children who kill themselves under provocation. Again I give the clauses entire (except for two cryptic sentences at the end of Clause 5, which appear not to be about suicide at all, and Hebraists' interpretations of which are too varied to give us solid foundations):

(4) It happened that the son of Gorgos ran away from school. His father threatened to box his ears. In terror of his father, the boy went off and cast himself into a cistern. The incident was brought before Rabbi Tarfon, who ruled: 'No rites whatsoever are to be denied him.'

(5) Another incident is that of a child from Bĕne Bĕrak who broke a flask. His father threatened to box his ears. In terror of his father, the child went off and cast himself into a cistern. The matter was brought before Rabbi 'Ăkiba, who ruled: 'No rights whatever are to be denied him.'

As a result of this, the Sages said: 'A man should not threaten his child. He should spank him at once, or else hold his peace and say nothing.'[93]

On the basis of both these clauses, it should be added, other, later Jewish sages developed a benign rule that a child should never, ever be held guilty of suicide.[94]

Before reflecting on these five clauses as an ensemble we may learn something about the genesis of suicide laws by glancing at the other seven clauses in the same chapter of *Śĕmahot*. For 'those executed by the court', it says (in Clauses 6 and 7, meaning the Jewish court), 'no rites whatsoever should be observed'. *Śĕmahot* goes on to allow the prisoner before execution whatever comforts are compatible with his prompt dispatch, namely spiritual comfort in the form of confession, and physical in the form of wine and frankincense (to dull the pain).[95] Clause 9 stands in contrast to this, being about executions by the Roman authorities. There the executed person *should* have all his funeral rights, and relations are encouraged to try and recover the body for this purpose. The difference of these two prescriptions appears to recognize that, because the Roman courts are pagan, their sentences lack authority. Thus once again, the rabbis are concerned to isolate a proven guilty intention as the determining fact for refusing burial rites.

[93] Zlotnik, *The Tractate 'Mourning'*, 33–4.
[94] Ibid., 101, n. 4.
[95] Ibid., 34–5.

Šĕmahot goes on (in Clause 10) to deal with accidental deaths, and specifically with death by drowning or by being eaten by wild animals, and insists that such death entails no loss of posthumous rites. 'No rites whatsoever should be denied to a person who falls into the sea, or is swept away by a river or is devoured by a wild beasts.' The rest of the clause returns to the matter of evidence, telling families when to give up hope and start mourning for a member who has gone missing (for instance, when his head is found, or the greater part of his body).

Of the three remaining clauses only one, number 11, concerns the untimely death of a member of the Jewish community. It lays down rules of behaviour for someone whose close relation has been crucified (he goes to live in another town until the remains of the body on the cross are no longer recognizable). Clause 8, confirming the paramountcy of the authority and membership of God's people, denies all posthumous rites to 'one who had severed all ties with his people'. The death of such a person should be met with rejoicing rather than mourning, 'for an enemy of God has perished'. Clause 12, finally, is the one that lays down diplomatic rules of social behaviour for divorcees.[96]

One further circumstance of Jewish history should be taken into account before we can interpret correctly the suicide provisions in *Šĕmahot*. It is a Hebraists' commonplace that Pharisaic legislation tended at that time to emphasize the moral criteria as the determining factor in the law's application, and at the same time to be humane and practical. Both tendencies are displayed in the chapter just quoted. In Clause 1, two rabbis confirm that if a suicide is not to be mourned he is not to be cursed either, but rather lamented or simply forgotten. That is humane. So are Clauses 4 and 5, where rabbis rescue child suicides from stigma on the grounds of their tender age and the provocation the child has suffered. Both those provisions show rabbis as seeking to minimize the law's effective range. In Clause 10, with its studious absolution of persons killed accidentally, the emphasis is on the identification of moral criteria, though the clause also tends to limit the existing law's application. Clause 7, for its part, shows humaneness where it recommends giving a condemned man wine and frankincense to dull his suffering and promises 'a share in the world to come' if he confesses.[97]

There can no doubt, therefore, that the legal utterances in the second chapter of *Šĕmahot*, if read as they stand, represent strong moral and humane concerns on the rabbis' part, and are in these respects typical of their literary class. Medieval legal commentators, both canon and civil in their different epochs, have shown us the same concern. But the medieval canonists also, accidentally, taught us something else, and it is pertinent now to remember what this was. I refer to the art of reading law upside down: of reading law as

[96] Ibid., 36. [97] Ibid., 34.

evidence, that is, of the circumstances it was enacted to correct. We have used this art obliquely already in this chapter, in respect of Seneca Rhetor, Quintilian, Plato, and Aristotle, and it can be employed more directly here. We have just read the second chapter of *Śĕmahoṯ* the right way up. It told us about the rabbis, and how discerning and humane they were. Let us now turn the text the other way up and ask *why* the rabbis said what they did, and why (for that matter) the tannaïtic writers took time and toil to record it. A different reading then emerges, its substance proclaimed in so many words at the outset: 'For a suicide [the chapter begins], no rites whatever should be observed.' While everything else in the chapter has the effect of *limiting* the operation of the law, the law remains as declared in that first sentence.

There is nothing whatever, in *Śĕmahoṯ*, or anywhere else, to tell us where the law came from. *Śĕmahoṯ* does not say it was the rabbis who invented it. It is not in the Old Testament, nor in any surviving Greek or Roman code. All we know is that the law *must* have been there, and been believed by the rabbis to have religious sanction, however much it grated on family mourners like those mentioned in Clause 1 (rending their clothes and baring their shoulders). If the rabbis had not believed in the law's sanction they would not have stated it so unequivocally at the outset of the chapter, nor would they, in the rest of the five clauses, have taken such pains to limit its effects without eroding its core principle. If there had been no law in existence they need not have gone to such trouble, to the extent (for instance) of leaning over backwards in insisting on cast-iron proof that the death really was a suicide. That they did go to such trouble is inexplicable, except on the premiss that such a law existed, unwritten, possibly old, possibly very old, possibly very old indeed, and certainly as old as Josephus.

Other Jewish tradition

Much else could be said about suicide in Jewish tradition. Some has been.[98] The expanses of the Talmud (the standard English translation fills thirty big volumes) contain anecdotes about suicide whose implications breed much discussion, and are far from unanimous.[99] Even a single anecdote can contradict itself on the legitimacy of suicide,[100] while injunctions, for their part, have

[98] e.g. Droge and Tabor, *A Noble Death*, 97–106; B. A. Brody, 'A historical introduction to Jewish casuistry on suicide and euthanasia', in Brody, ed., *Suicide and Euthanasia*, 39–75, esp. 40–62; H. Soloveitchik, 'Religious law and change: the medieval Ashkenazic example', in *Association for Jewish Studies Review*, 12 (1987), 205–21, esp. 208–12; A. Belkin, 'Suicide scenes in Latin psalters of the thirteenth century as reflection of Jewish Midrashic exposition', *Manuscripta*, 32 (1988), 75–92.

[99] Some are collected by Nelisse, '*Apologia*', 16–18, 44–7.

[100] e.g. '*Abodah Zarah*, 18a, where, after a rabbi undergoing martyrdom has refused to speed his own death ('Let he who gave me [my soul] take it away, but no one should injure himself'), his

similar ambiguity, an ambiguity recognized by the very writers of the old Talmud texts, when they say 'this matter is doubtful.'[101] All these passages were destined to attract highly flexible medieval developments, not uninfluenced by Christian canon law.[102] Nor are their ambiguities surprising in a corpus of tradition so large, assembled on so many different initiatives and at such different dates.

In one respect, nevertheless, the Talmud remains unequivocal. No single text in it flatly contradicts the lesson of *Śĕmahoṯ* in respect of a suicide's non-burial. For all the dispensations, limitations, erosions, and neglect to which that law might be subjected, *Śĕmahoṯ* puts beyond reasonable doubt that in Roman antiquity (which is the epoch now under scrutiny) such a law existed, in its essence upheld by the rabbis, then and later. All that remained to be accomplished was its justification. The nearest the Talmud got to this, from Scripture, was a gloss by Rabbi Eleazar, in the tannaïtic period, on Genesis 9: 5: '"Your life blood will I require", says the Lord.' The rabbi commented: 'it meant I will require your blood if shed by the hands of yourselves,'[103] and that interpretation went (unlike *Śĕmahoṯ*, its near-contemporary) into the Mishnah, where it became general property. Knowing what we do about the corresponding Christian development, we are bound to notice a parallel between the two traditions. Rabbi Eleazar claims that the biblical homicide ban includes *self*-homicide, thus matching the similar claim in St Augustine's *City of God*, of the commandment 'Thou shalt not kill.' While the two utterances differed in length, and in their exegetical and legal contexts, they stood in the same relation to the law of non-burial. Rabbi Eleazar's remark, that is to say, did not pre-date the law described in *Śĕmahoṯ*, quite the contrary. We should not be too reluctant, for this reason, to recognize that the same may have been true of St Augustine. More evidence in the same direction, from another comparable field, will be offered in the next chapter.

The Testimonies Taken as an Ensemble

A total of some twenty-one texts, then, seven Latin, thirteen Greek, and two Hebrew, have alluded to a peculiarity in the treatment of a suicide's remains in the ancient Mediterranean world. Their ensemble can now be considered as

executioner leaps into the fire in sympathy and is adjudged to have won eternal life. *The Babylonian Talmud*, tr. I. Epstein (London 1935), vol. 7, pp. 92–3.

[101] *Baba Kamma*, 91b: 'Tannaim differed on this point, for there is one view maintaining that a man may not injure himself and there is another maintaining that a man may injure himself.' *Babylonian Talmud*, tr. Epstein, vol. 1, p. 529.

[102] As described in the last three items in n. 98 above.

[103] *Baba Kamma*, 91b [p. 529]. Cf. above, p. 98.

a whole. Its most striking peculiarity is variety. The variety is of two kinds: in the practices themselves, and in the features a source chooses to mention. These two types of variety are themselves conceptually distinct, if not invariably distinguishable in practice. Thus we hear of rites mutually incompatible, like burial without a hand (Aeschines, Josephus, Christian of Stavelot) or mutilated in the feet (Elias); burial after dark (Josephus) or on a boundary (Plato) or on a shore (Timon). On the other hand we also hear of rites compatible but differently described. Thus Plutarch, apropos of Themistocles, has occasion to mention a suicide's clothes and noose; Aristotle, merely a 'stigma'; Plato, a complex rite. Yet all may, or may not, be referring to similar realities. Some writers just say a suicide is 'cast out unburied' (Quintilian and Seneca Rhetor in Latin, Dio Chrysostom in Greek, *Śĕmahot*—in effect—in Hebrew); others (Plato; Plutarch on Timon; Artemidorus) that he is 'nameless'; while yet others (Varro; the law on Kos; Diogenes Laertius) mention a curse on a suicide's tree or branch. Two writers, again (Quintilian and Valerius Maximus) mention a custom that a suicide could be justified to the senate.

We cannot always be sure, then, which kind of variety is present in each case: whether, that is, it is in the underlying facts that the variety lies, or in the choice of description. The variety is in either case itself a historical document, and invites interpretation. Let me take first the variety in practice. It implies, I suggest, that the usages belong on the lowest layer of social practice, obeying popular, customary, and local imperatives rather than the conscious design of legislators (despite the real or imaginary presence of the latter in three of our witnesses: Kos, Demonassa's Cyprus, and Josephus). This implication is backed by those forms of report which say 'such-and-such a people do such-and-such a thing' (the Thebans; Ceos). In other words it is a peculiarity of detail, not of principle, that strikes the outsider. Again, lawyers and philosophers have 'explained' this or that law as if the usages were invented by design (Aristotle and Athens; Quintilian). Yet they give different reasons (audacity; injustice; cheating the law), not consistent with either each other nor, usually, with the rest of the argument in the same text; all as if these lawyers and philosophers were rationalizing in retrospect. It is true that the laws of Lanuvium and Kos could be offered as exceptions, but even these may have been endorsements of practice. How else would those particular rituals have appeared in the law of Kos? As for Josephus' Jewish 'supremely wise lawgiver' (or 'wisest legislator': *nomothetēs*) he too may appear as an exception, as much that is Jewish is. But Josephus makes no attempt to identify the lawgiver, and although contemporary Jewish law (as implied by *Śĕmahot*) does appear to correspond with Josephus' reference, we do not know that Josephus had any particular rabbi in mind. What then of Demonassa of Kos and her three 'laws'? It may be suggested that history, in this case, is doing the job phi-

losophy has done in others, that is, rationalizing an existing practice. It would not be the only example. As for Plato's *Laws*, finally, there can be even less doubt. Plato's 'law' that culpable suicides be buried shamefully, and on boundaries, certainly did not create practice. But since he is unlikely to have drawn those details out of thin air, it may have reflected it; and that too would be far from an isolated instance in Plato's *Laws*.

These considerations concern the variety in custom. Variety in the sources' mode of description produces a different message, a message relating this time to the extent of the phenomenon described. The sources have at least, for all their reticence, given some indication of the nature of suicide funerary practices. What they say nothing explicit about is the latter's extent. Nothing explicit; but do they say anything *im*plicit? A problem lies here similar to that found in medieval Europe, namely that among those for whom suicide was taboo, the subject would be under-represented in literature. Artemidorus and others showed that the man who killed himself became 'nameless'. So, in some circles, did his act and the disgraceful rites that followed it. The very phrase *insepultus abiceretur* (or its Greek equivalent) is after all a euphemism: a body must be put somewhere, somehow. The variety in the profile of the descriptions of how the body was dealt with could therefore be read as a hint, if a small one, of the wide extent of the customs. It is as if we were watching the window of a mysterious mansion whose supposed inhabitants are trying to hide. If, each time we see a figure at the window, it is a different figure, it can fairly be concluded that there are many people in the house.

So the foregoing dossier is instructive as an ensemble, as well as in its constituent parts. It remains nevertheless a selective dossier, in two ways. It was chosen to include texts which point to an enduring practice in the disposal of a suicide's material relics. This principle excluded a number of contiguous issues potentially helpful in the task of interpretation, issues omitted through my wish to stick to bare essentials. Four such issues can be briefly identified. First, I left out any punishment of suicide which, on balance, seemed to resemble a single event rather than an enduring state of affairs. That was why there was a mere mention, without discussion, of Pliny's and Cassius Hemina's story of King Tarquin's crucifixion of the corpses of slaves, when their suicides had endangered a favourite public-works project.[104] Another case of an apparently *ad hoc* punishment, missed out, was the naked exposure of maiden suicides of Miletus, who were said to have inaugurated a wave of suicides there in 227 bc.[105] Second, except when our documents volunteered it as inseparable from their testimony on suicides, I did not properly extend the

[104] Above, n. 31. [105] Grisé, *Le suicide*, 131, 133.

enquiry to ask which other dead persons, like those executed criminals from Athenian or Jewish courts, were also denied normal burials; a consideration necessary, here as in medieval Europe, to set the suicide laws fully in context. A third neglected question has been that of the means ancients used normally to dispose of corpses, and in particular the cremation which came to be known as 'the Roman method' for roughly the half-millennium 400 bc to ad 100.[106] An understanding of that would affect our reading of the term *insepultus*, and lead us to ask, for instance, whether a suicide's body might once have been burned, and how. Finally, among major questions ignored here is the question how suicides were thought to fare in the afterlife. Since the answer, for Rome at least, seems to hang heavily on the interpretation of one notoriously problematic passage in the *Aeneid* (6: 432–76), on which specialist debate has lasted for generations, I thought it best not to muddy the relatively clear evidence we have on the concrete matter of burial with chronically ambivalent references to the world of spirits.

My excuse for all these omissions is strategic, like that one. Among much that is complex my aim has been to rehearse those texts which cannot be ignored. The same excuse, finally, is offered for an omission more substantial and of a different order. The purpose of this dossier of evidence (as distinct from its principle of selection) has been to demonstrate the existence at one level of Mediterranean culture, in all periods, of at least a memory of anti-suicide burial ritual. In some times and places, perhaps in most, such ritual was apparently more than memory. Whether its manifestations were remembered or actual, their severity, like their degree of application, admitted degree. The same can be said here as was said in Chapter 4 on Stoic philosophy: over a millennium, in a world as large as the Mediterranean, the strength and character of anti-suicide rituals is likely to have varied. Anything else would be surprising. But they must have been there in some measure, and in some character, to support the variety of surviving references. *Quod erat demonstrandum.*

'The Roman Attitude to Suicide'

At the beginning of the chapter I said its aim was not to portray 'attitudes to suicide in the Roman Empire', on the grounds that to aim so high would, besides distracting attention from the purpose of the work as a whole, have run into all the difficulties the historian of one period incurs in trying to settle disputes among historians of another. Both to protect and set in context the

[106] Toynbee, *Death and Burial*, 40.

lesson of the foregoing dossier it is right, nevertheless, to add a brief word on that larger topic.

The overwhelming bulk of Roman sources give a picture inconsistent with that painted by the dossier above. In the six or seven centuries ending at 200 ad, the suicides of well over 500 individual Romans are recorded. While that number is no larger than that of cases collected, from a slightly shorter period, in the medieval dossier at the end of Volume I of this work, there is a radical difference. Not only do the 500 Romans represent a much larger group in relation to the corpus of evidence from which they are drawn (a corpus immeasurably thinner, furthermore, than its medieval equivalent). The records of Roman suicides, in sharp contrast to those of medieval, never, or almost never, carry any hint that the act might be blameworthy; rather the contrary. Some of the Roman self-killers were the very models of Roman values, like the generals Marius and Brutus, the statesman Cato, or the poet philosopher Lucretius; while if men who got as far as merely *thinking* of committing suicide were counted the list would go on to include Cicero, Ovid, and a series of Emperors, Julius and Augustus Caesar at their head.[107] The same impression is given by drama and poetry in the two centuries round the reign of Augustus, which mention suicide, usually without hint of reproof.[108] Although philosophers, for their part, held more varied opinions, the philosophic school most careful to exculpate and even exalt some kinds of suicide, namely the Stoic, was precisely the school most influential in the ruling class of Rome's greatest age. The civil law, for its part, largely reflected their view.

By the beginning of the Christian era 'the Romans' can be understood as the governing class of the Mediterranean cultural world. There is a mass—*the* mass—of documentation to show that these Romans tolerated suicide and in some circumstances admired it. What the mass of documentation does not tell so easily, at least on the surface, was whether the world of these Romans accommodated more than one view of the matter. This question belongs inside a larger one, concerning the unity or otherwise of Roman religion, and in particular whether it was structured in two 'tiers', one for the more influential and educated, another for the rustics and poor.[109] I would like to finish

[107] Grisé, *Le suicide*, 34–53. [108] Hirzel, 'Der Selbstmord', pt 3, 424–5, nn. 4–5.

[109] The expression 'two-tier' in respect of later Roman religion was devised, for the purpose of denying its application, by A. Momigliano, 'Popular religious beliefs and the late Roman historians', in G. S. Cuming and D. Baker, eds, *Popular Belief and Practice*. Studies in Church History, 8 (1972), 1–18, and taken up for the same purpose, in my view an infelicitous one, by P. Brown, *The Cult of Saints* (London, 1981), esp. 12–22. The following argument only attempts to corroborate what many classical historians of suicide already accept. Cf. Grisé, *Le suicide*, 18, 150, 285; Van Hooff, *From Autothanasia to Suicide*, 166; and the admirably balanced résumé of philosophical views by M. Griffin, 'Philosophy, Cato, and Roman suicide', *Greece and Rome*, 33 (1986), 64–77 and 192–202, on p. 192. It is again a question of degree, emphasis, and the interpretation of sources, which may or may not be thought equivocal. Grisé, 153–6, for

this chapter with three reflections, mutually corroborative, bearing on this question from the special viewpoint of suicide law and ritual.

The subjects of the first two reflections need only be identified, because most of their ground has been covered. I discussed earlier in this chapter the word *suspendiosus*, and in particular the hypothesis that hanging was widely used as a suicide method especially among the unchronicled rural poor, and that this contributed to, if it did not originate, the curse on hanging. Of course, if this hypothesis were correct it would itself be an example of the two-tier character of Roman religion. As it is, it is only a hypothesis, and to use it to support a more general one would be to argue in circles. If, on the other hand, a two-tier character in Roman religion could be demonstrated on other grounds, logic would work the other way, since it would shift the onus of demonstration on to those who deny the *suspendiosus* = suicide hypothesis. That is, if the less-chronicled classes could be shown, somehow, to have followed substantially different religious principles from those of their superiors, it would have to be explained why this did not also apply to suicide.

This is not the place to embark on that broader demonstration, about Roman religion as a whole, but in respect of suicide one further circumstance should be borne in mind. In practice, whatever the laws said, there were certainly two tiers in the degree of their application. For where confiscation was involved, although a rich suicide attracted more attention than a poor one, our study of Roman law showed that influential people had ways of neutralizing even that factor, so that what was left was a law which punished the suicide of someone who looked like a rogue and whose suicide was thought to prove it. This was a logic hard to fight without lawyers, and lawyers cost money. I am only saying that this original sin of law-courts, the sin present throughout their history (of applying law differently to rich and poor), applied to suicide too. It certainly did in the Middle Ages: our study of medieval law-courts showed them, though starting from opposite premises, converging strangely with Roman; and they converged in this respect too, in that the technicalities of confiscation apart, it was easier for the heirs of a rich medieval suicide than of a poor one to get round, somehow, the ill consequences of his death.[110] (The 'pauvres et miserables personnes' who got to the Paris court of requests were another exception of the kind that prove the rule.)

instance, mentions evidence of a suicide taboo among the poor, but allows it an importance proportional to its volume relative to Roman documentation as a whole, rather than to the percentage of the population it represents.

[110] This is among the shrewd observations of G. Signori, 'Rechtskonstructionen und religiöse Fiktionen', in the collection edited by herself, *Trauer, Verzweiflung und Anfechtung* (Tübingen, 1994), 9–54, on p. 40, with examples.

That is my first reflection about any 'Roman attitude to suicide': it was at least as likely as not to have two tiers. My second reflection also takes up a principle identified earlier. From time to time in this volume a legal or other document has been read 'upside down'. That is, a deduction has been made, from (say) a rule spelt out by law, that the opposite condition must have been actively in force before the law was uttered. The deduction is inescapable for certain legal texts and, in some measure, for the utterances of some philosophers and rhetoricians. Diogenes in his barrel may have been an extreme case but he remains a significant one, since there would have been no point in his living in a barrel if everyone else had done so. The same goes for Diogenes' indifference to the taboo on suicide. This technique of reading documents upside down is one mercifully now familiar to students of history, and is one more reminder that documents are (among other things) events. Like all events, they are part of a dialectic whose other elements may not be equally visible. While this principle is palpable only for some of the cases we have studied it could, in theory, be extended to many more; and as far as it were, our entire reading of 'the Roman attitude to suicide' would have to be turned upside down. That is, the overwhelming mass of documents, which seem to prove one thing, may simultaneously also be proving the opposite.

That is my second reflection. My third, tending likewise to reinforce both it and the first, concerns change. Roman religion seems so far away from us that it appears as stationary, its constancy interrupted only by one big, critical event, the conversion to Christianity, which in turn appears equally stationary afterwards. *Eppur si muove*, as Galileo said of the movement of the apparently motionless earth: 'despite all, it moves'—as useful a principle in history as in astronomy. Much has been said in this volume about the stubborn endurance of certain rituals and beliefs, reflecting deep moral intuitions age after age. But the upside-down principle applies here too, in that the endurance would be unremarkable if many other rituals and beliefs were not, equally, always on the move. Those who have investigated most carefully the rituals and beliefs of Roman religion agree that these rituals and beliefs were no exception to this law: there was movement, even if at times as slow as that which geologists, in their turn, have discovered in the earth's tectonic plates. Dr Mary Beard of Cambridge (for instance) has explained how the very discovery of 'religion' as a subject of abstract consideration (as in Cicero's *De religione*) had, itself, been a mark of evolution, as Romans emerged from their chrysalis of unexamined belief to discover there was such a thing as *religio*.[111] The 'conversion to Christianity' marked another—perhaps more than one—stage in what was ultimately the same evolution. Where an evolutionary

[111] Change, differentiation, and unification in Roman religion are the subject of her chapter, 'Religion', in *The Cambridge Ancient History*, 2nd edn, vol. 9 (1994), 729–68, esp. 745–9, 255–8.

theory of Roman religion bears on my earlier two reflections is that evolution by itself implies diversity between newer and older elements within a single organism; and vice versa (since diversity is itself the principal engine of change). As if that were not enough, even the degrees of diversity were changing, for Roman society grew more complex and the Empire larger, thereby accommodating more social and economic cells, while the multiplication of these cells, in its turn, provoked counter-measures by emperors anxious to conserve what they conceived as the Empire's original religious unity. (Both Diocletian's persecution of Christianity and Constantine's conversion to it can be understood as unifying measures, provoked by those emperors' perception of growing diversity.) The one-tier view of Roman religion therefore has a lot to contend with. The question just *how* tiered Roman religion was must itself be many-tiered, itself unstable. There will always be work for its historians. In a word, the evolutionary character of Roman religion gives *prima facie* grounds for thinking that in respect of suicide, as in that of other deep life-and-death matters, there was room for another 'Roman attitude to suicide' than the one which, every fair historian recognizes, dominates the bulk of the surviving sources.

I would like to finish these abstractions by returning to a concrete example taken from the threshold that separates the ancient and medieval periods. It comes from a late phase of the Empire and its law, the reign of Justinian. In reviewing that Emperor's legal achievement I mentioned the hypothesis, defended by most historians of the subject, that the orthodoxies of law in respect of suicide were being modified, in the late Empire, by impulses from lower cultural strata than those on which most of the educated lawyers moved. An illustration of that particular dialectic is an incident of which we happen to possess precise evidence and a date: the suicide of the Byzantine mandarin, Phocas, in 546.[112] Whether or not the Phocas who killed himself was the same as the one who had served on Justinian's law commmission may never be known, but he was in any case a high imperial dignitary and one deeply attached, like most lawyers, to a pagan philosophical world-view only thinly veneered by Christianity, a world-view that underlay most of the *Corpus iuris civilis*. From the pages of the *Corpus* itself, only a careful examination can detect, and that indirectly, that anyone involved in its compilation thought suicide culpable. Yet Phocas' death would prove otherwise, for we learned how, in 546, he fell under suspicion of paganism and poisoned himself without his having been charged with any crime, much less convicted. The source, the chronicler John of Ephesus, says nothing on what happened to Phocas' property. By law the answer should have been 'nothing', and no trace

[112] See above, p. 164.

of guilt would have touched the record. Yet John of Ephesus reveals what we would not otherwise know, by recording that Justinian—the same who initiated and was titular author of the *Codex* and *Digest*—gave orders that Phocas' body be buried 'like that of a donkey without psalms or prayers'. To which the chronicler John added his own opinion, no doubt one on which he expected wide comment: 'and quite rightly so'.[113]

All this happened a mere fifteen years before the first Council of Braga and at the opposite end of the Mediterranean. Where, it may be asked, had Justinian learned what orders to give on such occasions? And where had the chronicler learned to approve those orders without a word of surprise or further remark? The answer can surely only be from custom; custom, that is, from a tier of culture below that expressed in any imperial written law, a tier of whose ritual, in this particular, we do not find a trace in any surviving legal text of the time, other than the Braga canon.

[113] C. Diehl, *Justinien et la civilization byzantine* (Paris, 1901), 556; Pauly-Wissowa, *Realenzyklopädie*, Neue Bearbeitung (Stuttgart, 1941), vol. 39 [*alias* vol. 20 (pt 1)], cols. 448–9 [§§4–5]; T. Honoré, *Tribonian* (London, 1978), 55, n. 127.

16

The Curse in Other Cultures

The last chapter began with a reflection on history, and the way we think of it. It drew attention to the existence, below the more articulate levels of political and institutional history, of deep cultural layers with slow historical wavelengths; so slow that they are missed altogether when history is cut into strict periods, necessary as these may be for other purposes; hence that excursus to antiquity. This final chapter must begin with a second reflection about historical method. It is not about periodization, this time, but about an intellectual convention quite as innate as periodization to historical thoughts, namely the assignment of sources. We readily assume—and more readily, no doubt, in the face of the fragmentary evidence which is all that survives from epochs a thousand or more years ago—that, if two identical notions appear one after the other, the first must be a source for the second; for instance, that if two men have identical ideas in succession, the second has got it from the first. He may have done. As with periodization, the convention is not automatically wrong. No study of human societies could begin if such transmissions were not recognized as widespread, as they are (for instance) in language. But spontaneous invention is also widespread, indeed universal; for even in the most self-consciously conservative cultures, people incessantly have to improvise and invent. They have to on the simple ground—one planted in the nature of things and irremovable whatever our temperament or predilections—that situations are never quite predictable. This is especially true of any milieu with life in it, even that of animals, much more so of human beings, since a milieu of this kind demands new reactions, measures, and ideas never conceived before. This need comes together with intellect, whose very etymology (from *inter-legere*: 'choose from among') signals a positive, 'get-up-and-go', act of reason.

To ignore this fact in our reading of history is to commit what R. G. Collingwood called 'the fallacy of sources', and labelled as one of the historian's most dangerous professional vices—a *déformation de métier* like brutality among soldiers. That lesson is useful now, in the quest for an aetiology

of medieval suicide law, a law largely customary and unwritten. Unwritten customs, about suicide or anything else, can originate in either transmission or invention, or in a measure of both. Because it is usually hard to tell which, or which predominantly, we students of history are tempted to overestimate the factor that forms the more demonstrable pattern, namely transmission. We are tempted, in other words, into the fallacy of sources. The recognition of this danger does not eliminate it, but it weakens it, by putting a new condition on those who investigate origins. The condition is that a scattered chronological series of comparable data, especially when they include small differences, cannot prove transmission. To do so it needs two supplements: a device for judging whether or not a usage may have been spontaneously invented, and a credible proposal (if it was not) of a path of transmission from somewhere else.

In the context of the evidence rehearsed in the previous chapter, evidence scattered over a millennium of pre-medieval western history, the aim of this final one is to supply these two needs, and thereby complete as far as the thin sources allow the aetiology of medieval suicide law. This last chapter will be in five sections, split into two groups to match the double need they answer. Sections 1, 2, and 3 will look at custom and belief in societies with no obvious claim to be sources of universal European custom; sections 4 and 5, at milieux from which, hypothetically, suicide taboos might directly have been transmitted. The distinction implied here between comparative and historical approaches will be less absolute in practice than the dichotomy suggests, and the ratio between the two will in fact grow by stages through the five sections. The approach will start, that is, as purely comparative, and finish as purely historical, and be a mixture in between. The consequence of this order of procedure will be that, by the end—with the comparative material stored at the back of our minds—the means will be at hand for a purely historical judgement.

Suicide Taboos among Primitive Peoples

I begin, then, with pure comparison; that is, with a look at suicide customs and beliefs among peoples more or less free of the relevant influences and traditions, from civilizations—like the Greek or Roman—that might have influenced medieval Europe. The peoples to be considered are those on whose attitudes to suicide European students have reported within the last 200 years. I shall summarize three such secondary sources: first, a comparative account published in German in 1933 by Jakob Wisse, *Suicide and Fear of Death*

Among Primitive Peoples;[1] second and third, a pair of first-hand studies of attitudes to suicide among separate East African peoples, both published in 1960.[2] In summarizing these reports it will be wise to keep especially alert to points of comparison with ancient and medieval Europe, points touching, for instance, the times, places, and styles of burial; attitudes to the material accoutrements of suicide (including methods), and to intention; and beliefs about spirits and the afterlife. One final point of comparison, referring especially to the practices just documented from Mediterranean antiquity, will be the variety—as distinct from the substance—of the customs and beliefs illustrated. Even when these latter seem to say the same thing they do so in a number of ways. Since this variety *per se*, as well as many of the features which make it up, offers a comparison with the European evidence, we shall also have to ask, at appropriate points, whether the beliefs of the primitive people in question may, on their side, have been influenced by Europeans (for instance, by missionaries).

Let the first witness be called then: Jakob Wisse, comparative anthropologist, student of the *Naturvölker* or 'nature peoples'.

Wisse's survey of *Naturvölker* (1933)

Among his 'nature peoples' Wisse found evidence of both the attitudes to suicide we discovered in the Roman Empire: tolerance and indifference on one hand, fear and taboo on the other. In the world as a whole, attitudes thus oscillated. Occasionally Wisse found the oscillation within a single tribe, as was the case with the Nigerian Ibos. Wisse's source on the Ibos (A. G. Leonard, writing in 1906) found a few Ibo tribesmen holding suicide to be 'brave and big-hearted' while most thought it a 'foolish' and a 'devilish or evil death'.[3] Oscillation. On balance, Wisse identified more tribes without a taboo than with one, though the elusiveness of evidence on this subject—a hindrance only too familiar for us medievalists, and perhaps under-appreciated by Wisse—may have contributed to this conclusion.

Whatever the true balance between peoples with, and without, a suicide taboo, a study of those *with* the taboo yields several features comparable with those found in the Mediterranean world. The refusal of formal burial is quite common. Inhabitants of the Pelew Islands, 500 miles east of the Philippines, said in the 1880s that they refused honourable burial to suicides, and buried

[1] J. Wisse, *Selbstmord und Todesfurcht bei den Naturvölkern* (Zutphen, 1933).

[2] Jean La Fontaine, 'Homicide and Suicide among the Gisu', in P. Bohannan, *African Homicide and Suicide* (Princeton, NJ, 1960), 94–129; and L. A. and M. C. Fallers, 'Homicide and Suicide in Busoga', ibid., 65–93.

[3] Wisse, *Selbstmord*, 322.

them where they lay, like soldiers; and that they believed the spirits of suicides wandered as ghosts.[4] Examples of such views come from a wide geographical range. A man of the southern African Baronga, reported on at about the same time, committed suicide with the declared expectation of being 'unburied'.[5] Euphemistic vagueness can be replaced by explicit prescription. In 1873 a visitor to the Choctaw, an Indian tribe of Oklahoma, reported the tribe's insistence that a suicide be buried 'as one to be directly forgotten', with no ceremony.[6] What is actually done with the 'unburied' corpse varies in the few examples about which information is given. A late eighteenth-century traveller in Louisiana found that the local Indians in Louisiana threw the suicide's corpse into a river, though with no sign of any ritual elaboration like that of medieval Rhinelanders with the barrel.[7] In south-western Africa the Ovambo would throw the corpses of suicides to wild beasts. That they did the same with corpses of persons who had died of disease suggests an idea of contagion, which we have met briefly before and shall meet again in a moment.[8] The burial of suicides after sundown, ascribed by Josephus to the Jews of his time, likewise finds an echo in a report of a non-European people: another Oklahoma tribe, the Creek Indians, reported in 1851 as having buried a woman suicide 'quietly the same evening'.[9] As for the curse on a tree used by a suicide to hang himself, we find it twice reported at places mutually distant. Among the Thonga of southern Africa such a tree is cut down, and once more the reason given is 'contagion'. 'It is taboo,' writes the author of an account published in 1912; 'other people might commit suicide at the same place.'[10] Another form of such a curse is found in the belief of some Sioux Indians of Dakota, reported in 1904, that the ghost of a suicide will be condemned for ever to carry round the tree on which he has hanged himself—a punishment eerily reminiscent of that of Dante's suicide-trees in *Inferno* 13. One corollary, also believed among the Sioux, is that suicides therefore choose the smallest tree they can find.[11]

The suicide's ghost, mentioned in that belief, is prominent in a number of other reports. In British Columbia, according to an account of 1900, the Thompson Indians say that the shamans, or holy men, whose vision extends far beyond the natural world, declare themselves unable to find the spirits of suicides in the world of dead souls. Some shamans acknowledged, to the investigator, that they did not know where the souls of suicides went, but thought they must be lost or had ceased to exist altogether, while yet others thought such souls wandered the earth without rest.[12] Among those same

[4] Ibid., 80. [5] Ibid., 255. [6] Ibid., 189. [7] Ibid., 189.
[8] Ibid., 256; for contagion, cf. above, pp. 481–2.
[9] Wisse, *Selbstmord*, 190; cf. p. 515 above.
[10] Wisse, *Selbstmord*, 259. [11] Ibid., 149. [12] Ibid., 132.

Sioux Indians of Dakota, on the other hand, whose suicides carried trees, were some who thought suicides' souls would be positively punished in the other world, and that the bearing of their fatal tree was just one example.[13] Yet others of the same group believed that a suicide's soul indeed went to the Other World, but to a place reserved exclusively for suicides, a place described in one case as 'The Land of the Bad'.[14] In Alberta, similarly, the Blackfoot Indians believed that a suicide's soul suffers like that of the man who has led a wicked life on earth; that is, he has to make his own way to 'Soul Land' after death, climbing steep rocks to the inhabited part of 'Soul Land'. If its inhabitants welcome him he will be happy; if not, he must return to earth as a punishment. As for female suicides, whose deed the Blackfoot condemn with special force, their souls never reach 'Soul Land' at all but vanish and are never heard of again.[15] Three or four of the tribes subject to these reports said explicitly that suicide was 'very bad', or 'foolish'. One of the Sauk Indians, a tribe of Iowa, according to a report of 1825, explained this view on the grounds that 'only he who gave life may take it away.'[16]

The similarity of that last remark to a view expressed in Pythagorean, Jewish, and Christian tradition is striking; suspiciously so. Although a proper mission was not to start in Iowa until 1832, white settlement had begun in 1788, and in a case with such Christian resonance the possibility must be kept in mind that the European observer was here listening to the echo of his own voice, or at least the voices of evangelistic compatriots. A swift general survey, based on the whole world, is hardly the best context for reassurance on this point. I shall come back to it under more promising conditions. That is all the more reason to turn, at this moment, from Wisse's general findings to the particular discoveries of two more recent anthropologists, each reporting firsthand, and *ex professo,* on the attitude of a single tribe to suicide among its members.

Two studies of East African peoples

Both tribes are in Uganda (or were: I ignore the question of contemporary changes). Two independent investigators published their findings on the two peoples in 1960, in the collection *African Homicide and Suicide.*[17] Jean La Fontaine met the Gisu on Uganda's eastern border, in the years 1945–55. They then numbered about a quarter of a million and lived almost wholly by agriculture. As background to suicide beliefs we may note a few hard facts about Gisu suicide. In the sample studied, the range of motives resembled that

[13] Wisse, *Selbstmord,* 149. [14] Ibid., 149–50; cf. 80 (the Pelew).

[15] Ibid., 151. I have omitted from the above review two instances of the imposition of suicide as a punishment, among the Kaffirs of Lorenzo Marques (p. 254) and the Ibo (p. 322).

[16] Ibid., 151. [17] As in n. 2 above, pp. 94–129; 65–93.

recorded by Durkheim in nineteenth-century France, physical or mental disease accounting for nearly half the cases,[18] whereas, among methods, the predominance of hanging (94 per cent)[19] recalls rather the poorer Romans. What we know of the incidence and profile of Gisu suicide, in other words, bears comparison with European examples. The same was true of the male : female suicide ratio, at 3 : 2.[20] Other statistics, from a sample necessarily small, had peculiarities which La Fontaine easily relates to features special to Gisu society, notably the high value it put on physical strength and on child production.[21] Against this background of fact—none of it wholly outside the range by now familiar—La Fontaine portrayed Gisu attitudes. The Gisu thought very ill of suicide, he says, and did so with a disapproval that took no account of motive. It did not matter, to the Gisu, whether suicide was due to a reasoned decision that life was too much trouble or, as often, to *litima*, 'temper', a dangerous quality inherited from one's ancestors (and in some degree comparable to the suicidal *ira* of the early Middle Ages, on which I hope to say something in the following volume).[22]

Gisu disapproval of all suicide was expressed, each time such an act occurred, by the restriction of some funeral rites, and the addition of others. A suicide's funeral would be attended only by the closest kin, instead of the usual compulsory large numbers. No drums were beaten, no mourning rites enacted[23] unless it be counted as a mourning rite that a sheep was killed to pacify the suicide's spirit, as something evil.[24] The suicide's name was not to be mentioned in subsequent sacrifices to the ancestors.[25] Meanwhile, the suicide's corpse was treated with fastidious ritual: smeared with the contents of a sheep's stomach, a purifying agent also applied to the instrument of death (usually a rope) and the place where the act was committed.[26] The task of removing the corpse was assigned to a person unrelated to the dead man and was rewarded, by the kindred, with the gift of a bull.[27] Finally, the corpse was thrown into thick bush where no one would be likely to come across the bones. The skull was not put in the lineage depository with those of honoured relations.[28] The fate of the suicide's dwelling varied. Either it was pulled down or it was left standing, but smeared with the same purifying agent as the body and rope.[29]

La Fontaine was confident in interpreting these rites as expressions of a specific fear, the fear, that is, that suicide was physically contagious, especially to the dead man's relations, and above all those on his father's side.[30] The use of chyme (the contents of the sheep's stomach) to smear the body and all else

[18] La Fontaine, 117.
[19] Ibid., 116.
[20] Ibid., 117.
[21] Ibid., 113–16, 121, 125–7.
[22] Ibid., 110.
[23] Ibid., 112.
[24] Ibid., 110.
[25] Ibid., 112.
[26] Ibid., 110–11.
[27] Ibid., 110.
[28] Ibid., 112.
[29] Ibid., 111.
[30] Ibid., 111.

associated with the act, implies this view (chyme being acidic and hence a repellent of contagion), as does the destruction of the house and the removal of all objects directly linked with the act. 'Nothing must be left,' La Fontaine writes, 'which might cause another suicide by its contagious evil.'[31] A special vulnerability to contagion attached to the lineage, for two reasons. The *litima* which caused the suicide was dormant in their natures; and the act of suicide might have been an act of ancestral vengeance, directed against a whole lineage.[32] (Living witches, falling short in this respect of dead ancestors, could cause murder but not suicide.) Lastly, the contagion extended to language. No one was to name a child after the suicide, and families were normally slow even to admit that any close relation had committed suicide.[33] These explicit allusions to contagion are all the more valuable because they tally with the slighter ones we met in connection with two southern African peoples, the Ovambo and Thonga.[34]

A similar but shorter study of the same topic was made by L. A. and M. C. Fallers among the Basoga, another Bantu people of eastern Uganda, further to the south but also on the border.[35] In the years of the enquiry, 1952–4, the facts of suicide among the Basoga were similar to those of the Gisu, with a comparable rate and profile of suicide.[36] So were Basoga reactions. The Basoga, too, disapproved of 'self-killing', a translation of their own word for suicide.[37] It was always wrong, they thought, even when committed by an aged parent who sought to relieve his family.[38] So the suicide's corpse was denied ordinary burial, and would either be burned, together with the tree or hut where the suicide was found hanging (this again being the all but universal form of the act);[39] or buried, but at a crossroads or in waste land.[40]

The destruction of the house; burial at crossroads or in waste: some of the parallels with European practice are again so similar as to excite suspicion, perhaps more so because at the time of these studies Uganda was ruled by Britain. Indeed, in both investigations, the evidence came partly from records of courts themselves overseen or organized by the British. Whether that explains away the peculiarities of Ugandan custom is more doubtful. Direct legal influence was at the time limited to the highest Ugandan courts. More important, a comparison with other African societies under British rule shows a variety too great to admit that the rules were responsible for the suicide phobia reported by Fallers. Last and most conclusive, where British influence does become palpable in respect of the Gisu and Basoga, it is directed *against* the drift of the customs in question, and especially against the peculiar burial rituals. The burnings of suicides' bodies, or their burial in out-of-

[31] La Fontaine, 111. [32] Ibid., 111–12. [33] Ibid., 112. [34] See p. 535 above.
[35] Bohannan, *African Homicide and Suicide*, 65–93. [36] Fallers, 'Basoga', 74, 79.
[37] Ibid., 68–9. [38] Ibid., 69, 71. [39] Ibid., 72, 75. [40] Ibid., 70.

the-way places, have been described here as practised before the British intervened, and established uniform burial for all corpses.

A worldwide investigation of suicide customs could naturally go on longer. This one has again had a limited purpose, that of demonstrating that some essential elements in European law and belief have parallels among peoples clearly independent of European influence. I now turn to a second non-Mediterranean area of study. This time it is an area with a traceable history, as distinct from one we come on only in snapshots, without duration. The history in question cannot usually be fixed to a clear chronology, so it cannot be told year by year. Even the vaguest outlines, however, remain outlines of a kind.

Attitudes to Suicide in Ancient and Medieval India

The history in question is that of India, in the so-called Vedic and classical periods, that is, up to the late seventeenth century ad. The relevant legal texts, in Sanskrit, were analysed in Dr Upandra Thakur's *History of Suicide in India*, published in Delhi in 1963. Like much of the European evidence, Dr Thakur's texts do not speak with one voice on all aspects of the subject; there is oscillation here too. In addition, and unlike the European laws, those in Sanskrit are notoriously hard to date, not least because most of them spent many centuries—no one knows exactly how many—not as written texts at all but as texts elaborately memorized by devotees with that hereditary duty. That does not destroy their value. On the one question now at issue, certain features stand out consistently enough to admit generalization.

'Religious' suicide

The most striking feature of the Sanskrit laws is a tendency to put what their expositor, Dr Thakur, calls 'religious' suicide in a special category, and permit or even enjoin it. Religious suicide could be more or less narrowly defined. But by one definition or other it is sanctioned by authorities scattered along the entire history of Sanskrit literature. One of the metrical law codes (or *Dharma śāstra*),[41] for instance, not only permits but recommends suicide—by drowning—for a pilgrim who reaches the confluence of the Gaṅgā and Yamunā rivers at Prayāga.[42] Similar concessions are expressed in favour of

[41] The ś is pronounced roughly like the English 'sh', the ā as 'ar', giving this title the approximate sound 'Dharma sharstra'. I owe my instruction in this matter to Dr Gillian Evison, and repeat her caveat that some Sanskrit sounds cannot be rendered accurately in English.

[42] U. Thakur *A History of Suicide in India* (Delhi, 1963), 54–5. The work mentioned is the

suicide in connection with certain other pilgrimages and holy places. For instance, another form of religious suicide, distantly comparable with the *endura* of the European Cathars, attaches to the ascetic who has reached the limit of achievement laid down by his religion for a mortal:

> The *sannyāsin*, who has acquired full insight, may enter upon the great journey, or choose death by voluntary starvation, by drowning, by fire or by a hero's fate [self-stabbing with a sword].

That concession is made by two late Upanishads.[43]

Permission or encouragement to kill oneself can extend beyond the context of pilgrimage or asceticism. Certain accidents of life could, in both practice and law, be acknowledged as proper occasions for suicide. The self-immolation of a widow at her husband's cremation, the well-known suttee, is prescribed in some laws—as, for instance, in the same text that enjoins suicide for the pilgrim at the confluence of those two named rivers—and if historical texts are brought into the reckoning they leave no doubt that it was regularly practised. Then there were the accidents of old age, disease, or other misfortunes. The law code ascribed to Manu (dated to between 200 bc and ad 200) permits a Brahman (a member of the hereditary priestly caste), if struck by disease or misfortune, to

> set out in a north-easterly direction and walk straight forward, diligently engaged in eating nothing but water and air, until his body collapses. A priest [Brahman] who has abandoned his body by any one of those practices of the great sages, without sorrow or fear, is exalted in the world of ultimate reality.[44]

Again, historical sources confirm that this happened. Inscriptions and epics (the latter mainly from soon after *c.*1000) tell how a high-ranking person—usually a king or emperor—decides he wishes to die, explains his position to associates and then ceremoniously drowns himself or jumps from a height, always in a sacred place, and normally taking his wife or wives with him (in one case a hundred wives). One such royal suicide (according to a poem written soon after his death) began by telling his entourage that he wished to rid himself of 'the folly of attachment to the body', then explained that since that

Brahma purāṇa. For the date see L. Rocher, *The Purāṇas: A History of Indian Literature*, ed. J. Gonda, vol. 2, fasc. 3 (Wiesbaden, 1986), 103.

[43] The *Jābāla* and *Kaṇṭhaśruti* (the latter otherwise known as *Kaṭha* or *Kāṭhaka*; the four words are pronounced 'Jarbarla', 'Kantashruti', 'Karta', and 'Kartaka'), in Thakur, *Suicide in India*, 50–1. Cf. S. Radhakrishnan, *The Principal Upanishads* (London, 1953), 895–900 (Jābāla) and 593–648 (Katha). I quote Dr Thakur's version of a passage from the Jābāla Upaniṣad. That of Dr Radhakrishnan is on his p. 898. I thank Dr Elizabeth Tucker for guidance on dating and transliteration. On the *endura*: *The Violent against Themselves*, 189–91.

[44] *The Laws of Manu*, ch. 6, §31–2; trans. W. Doniger and B. K. Smith (Harmondsworth, 1991), 120. Cf. Thakur, *Suicide in India*, 59.

body had been employed in the service of Śiva it should be abandoned in a place sacred to that god ('Who would withhold their support from so fitting an action?'), made a lavish distribution of gold to his Brahmans ('The illustrious do not abandon their discipline of giving even in the face of death') and ceremoniously walked into the local sacred river and drowned. Another such ruler had to negotiate with his family and ministers. He began by confessing to them that, after a full and successful reign, old age had now 'seized me by the hair to hand me over to Death; and my body has been invaded by wrinkles as a weak kingdom is invaded,' and said he therefore proposed to die, and to hand over government to his brother-in-law. But the brother-in-law had himself to be restrained, by a stratagem of feigned royal anger, from joining a suicide party which, in the event, included the king, his two wives (one on either side), and his former set of ministers. Together these climbed Mount Kālañjara—a sacred mountain described by another medieval source as 'world-famous' for precisely this purpose—did obeisance to Śiva, and jumped, to be caught up miraculously by a blazing chariot and taken to heaven.[45]

Less lofty occasions could also permit suicide. A chief minister ritually drowned himself when his royal master retired to live as an ascetic; and we hear of other individuals, male and female, who killed themselves in the expectation of being reborn in a more favourable incarnation: as the husband of a certain goddess, or as a princess. Finally, among permitted suicides, mention is also made of suicide for revenge, by which a Brahman could burn, stab, or—quite often—starve himself to death while cursing an enemy, an enemy commonly envisaged as a rajah, but who could also be a debtor, to be shamed this way into settling his debt.[46]

Some of these forms of Indian permitted suicide find echoes in the European West, ancient and medieval. Hints were heard from ancient Marseilles, Ceos, and Spain, of a proposed suicide's public apologia and statement of his motives. The suicide of those who today might be old-age pensioners, by jumping from a particular precipice, will be the subject of references to pre-migration eastern and northern Germanic peoples. The use of self-starvation, meanwhile, as a means to coerce a debtor, was a practice well

[45] I owe the knowledge and translation of these sources to Professor Alexis Sanderson, and pass on his identification of them for readers of Sanskrit. The hundred wives: *Epigraphia Indica*, II, 4. The 'folly of attachment to the body': *Vikramāṅkadevacarita*, 4, 59–60, 66c–68. The king and his brother-in-law: Somadeva, *Kathāsaritsāgara*, 111.66–84. Kālañjara: *Mahāthārata*, 3, 83.53–54 (Poona edn); Mt Kālañjara is in what is now the Banda district of Uttar Pradesh.

[46] The chief minister: Kalhana, *Rājataraṅgiṇī*, 4.391 (12th century, referring to a time long before). Rebirth: as husband of goddess: ibid., 3.430–1; as princess: *Kathāsaritsāgara*, 43.161–3. Against rajah or debtor: Thakur, *Suicide in India*, 63–5.

attested in archaic Irish law (though rendered non-lethal by the time Christianity arrived).[47] These resonances raise the 'Indo-European question', on which we shall have occasion to say more in a moment.

It will have been noticed that the prescriptions and concessions in Indian law are specific to certain methods and motives of suicide, as also often to certain classes of person. A suggestion is therefore present, with strength varying in each case, that suicides outside these permitted categories were condemned. This suggestion will gather force shortly when we turn to another facet of the Sanskrit tradition. But it should be stressed that we are not, even in the evidence considered so far, looking at a consistent corpus of legislation, recommending some forms of suicide and forbidding others. Emphasis and nuance can vary from one authority to another, doubtless—rather as we found earlier in Jewish tradition—reflecting the preoccupations of the social groupings by and for whom they were written, as also, no doubt, chronological variation. In the late Upanishads, for instance, which scholars are even more hesitant to date than they are other Sanskrit scriptures, Dr Thakur noticed a dearth of any mention of suicides.[48] If dating were easier more sense might be made of these variations, but as things stand we must be content to know that these laws, allowing or encouraging specified kinds of suicide, represent one strand in the tradition, a strand neither definitely 'ancient' nor definitely 'modern', being represented in texts certainly datable to a century or two before the Christian era and in others certainly of the sixteenth century. The approved suicide, in this tradition, is always religious in character, either in an obvious sense or in the indirect one that it evokes rules of honour or social obligation.

Condemned suicide

We turn now to another aspect of the tradition. Although it is 'other' it is not complementary, for normally it does not occur in the same texts, observe the same distinctions, or employ similar phraseology. This time the laws condemn suicide, for a large part indiscriminately and in the strongest terms. Religious sanctions and maltreatment of the corpse are envisaged as in medieval Europe, and the suicide goes to Hell. The *Parāśara* Law Code—one of those roughly datable, in this case to the seventh century ad, and itself apparently quoting an older text—says that:

[47] Above, pp. 488–91; below, p. 566; R. Thurneysen, 'Aus dem irischen Recht, II, §3. Das Fasten beim Pfändungsverfahren', *Zeitschrift für keltische Philologie*, 15 (1924), 260–6, at 261; and D. A. Binchy, 'Distraint in Irish Law', *Celtica*, 10 (1973), 22–71, at 34–5.

[48] Thakur, *Suicide in India*, 49.

if a man or woman commits suicide by hanging through extreme pride or extreme rage and through extreme affliction or fear, he or she 'is consigned to the darkness of a hell for 60,000 years, which is full of blood and fetid pus'.[49]

The *Īśāvāsya* (or *Iśā*) *Upaniṣad* says much the same without the Indian arithmetician's characteristic way of designating eternity:

Those who take their own lives reach after death the sunless regions, covered with impenetrable darkness.[50]

Funeral rites are not to be celebrated for such people. Kautilya, a political philosopher and statesman whose influential *Arthaśāstra* belongs probably to the first or second century ad, condemns in the strongest terms

those men and women who under the infatuation of love, anger, or other sinful passions, commit or cause to commit suicide by means of a rope, arms or poison.[51]

The *Arthaśāstra* insists that

for such murderers neither cremation rites nor any obsequies, usually performed by relatives, shall be observed.[52]

The same passage introduces another theme familiar to us from medieval Europe, the injury done by a suicide to his family. In the *Arthaśāstra*, as in the Braga canon of 561, it is a case of implicit breaches in the law. The *Arthaśāstra* declares that any relative

who performs funeral rites of such wretches shall either himself be deprived of his funeral or be abandoned by his kith and kin.[53]

The strain put by a suicide on his family is even more pointedly illustrated by the *Yama-smṛti*,[54] a tradition of the sixth or seventh century, which imposes a fine and penance on the suicide's friends and sons, whatever their attitude to the act may have been.[55] The *Parāśara*, whose assignment of suicides to Hell was quoted earlier, meanwhile added a warning also for the family and other surviving well-wishers:

no period of uncleanness should be observed in respect of such a violent death. The rite of cremation is denied to the corpse of a suicide, no tears should be shed for, nor should any libation of water be offered unto [the spirit of] a suicide.[56]

Two other texts of the same period use comparable language, differing only in that they combine suicides with other classes of posthumous outlaw:

[49] Ibid., 58.
[50] Thakur, *Suicide in India*, 51. The name is pronounced 'Easharvarsya' ('Eashar'). See n. 41.
[51] Thakur, *Suicide in India*, 53; from *Arthaśāstra*, bk 4, §7. Date: H. Scharde, *Investigations in Kauṭalya's Manual of Political Science*, 2nd edn (Wiesbaden, 1993), 292–3.
[52] Ibid. [53] Ibid. [54] 'Yama-smurti'.
[55] Thakur, *Suicide in India*, 57. [56] Ibid., 58.

no tear should be shed by the good, seeking their own well being, for those killed by kin or for those who committed suicide . . . The offering of water and funeral cakes . . . for the great sinners or for those who have committed suicide do not at all reach [them], but are stolen by the *Rākṣasas* [the demons].[57]

Whether the phrase 'the greater sinners or . . . those who have committed suicide' distantly resembles, or only seems to resemble, Latin theologians' accommodation of suicide in their schemes of cardinal sins, is a not immaterial problem. It must again be left for consideration in the context of the Indo-European question, in a moment.

The suicide's soul, then, goes to Hell. He or she must not be mourned, nor must any attempt be made to assist the suicide's departed soul. Finally, condemnation is expressed by maltreatment of the corpse. The same *Yama-smṛti*, or 'Tradition of Yama', a tradition of the sixth or seventh century ad, lays down that

when a person tries to do away with himself, by such methods as hanging, if he dies, his body should be smeared with impure things.[58]

Kautilya, for his part (supposed author of the *Arthaśāstra*, quoted earlier), prescribes measures which doubtless owed something to his known practical experience as a statesman. *Inter alia* he mentions an official whose function is to inspect corpses. Medieval European parallels again come to mind. Corpses, says Kautilya, should be examined by a commissioner who can thus ascertain the circumstances of death, and if it is a suicide (as described in the passage quoted on p. 543).

it should be dragged by means of a rope along the public road by the hands of a *caṇḍāla* [executioner].[59]

The body should then be exposed on the public thoroughfare and subject to insults and indignities.[60]

Yet other texts, backed in this particular by an ethnographer's recent reports of custom from various parts of India, suggest that the corpses of suicides, as of other victims of untimely death (like snake-bite), evoke ritual studiously inverting normal practice: for instance, if a mourner normally walks clockwise round the corpse, then for an untimely dead he will walk anticlockwise.[61] The same sources indicate, in connection with ill-omened death, other rituals reminiscent of European custom, for instance (observed as a cus-

[57] Thakur, *Suicide in India*, 58: 'Rarkshasas' (with emphasis on the first syllable).
[58] Thakur, *Suicide in India*, 57.
[59] 'Chandarla'. [60] Thakur, *Suicide in India*, 53.
[61] G. Evison, 'Indian Death Rituals. The Enactment of Ambivalence'. D.Phil. thesis (Oxford, 1989), 54, 159–67, 288–300.

tom among Brahmans of Madras), the removal of the corpse through a specially made aperture in the wall of a house.[62]

The laws condemning suicide in these ways go back chronologically quite as far as those permitting suicide for religious reasons. The *Vasiṣṭha Dharmasūtra*[63] has been dated to the third century bc. It declares that

> whoever kills himself is *abhiśapta* [guilty of mortal sin][64] and his *sapiṇḍas* [kin and friends] have to perform no death-rites for him. A Brahman who through affection performs the last rites of a man who commits suicide must undergo the penance of *cāndrāyaṇa* [a fast which followed the phases of the moon] with *tapta kṛccha* [the drinking of hot liquids and the inhaling of hot air].[65]

It is not easy to clarify the relationship between two currents of law in this apparent contradiction. A few texts, notably two *Dharmasūtras* of the late Vedic period (roughly from the ninth to the eleventh centuries ad) actually seek to reconcile the two currents in one scheme. They forbid most suicide but allow exceptions for special cases, namely strictly religious suicide and suttee. This is thought as likely to represent a pragmatic endeavour to reconcile traditions as it is to express any permanent synthesis. Oscillations remains in the background. However, Dr Thakur finds ground for a belief that the severe sanctions on suicide may reflect periods of reaction against Brahmanic religion.[66] If this is true, then it complicates a question of which we have now to take notice. This is the 'Indo-European question', alias that of the prehistoric relationship, if any, between Indian and European custom.

India and Europe

That last complication (that the sanctions against suicide may have been the work of an anti-Brahman reaction) lies in its apparent reversal of the priestly role. The Brahmins are conceived of as *allowing* suicide, their critics as forbidding it. To judge from the Braga canon and its tradition, the western sanctions were the work of the priesthood. A western counterpart to the Brahmans, on this interpretation, would have to be identified, not in the priests, but in the philosophers who guided the Roman upper class, since it was they who found suicide commendable in some circumstances.

Other east–west parallels between India and medieval Europe are nevertheless more direct. The Sanskrit evidence has mentioned desecration of the

[62] Evison, 'Indian Death Rituals', 168. Cf. ibid., 212: corpses should be removed through the *back* door of a house—*Uttaratkhaṇḍa* (6th–11th century ad). Cf. pp. 23–8 above.
[63] 'Vasishta Darmasootra'. [64] 'Abishapta'.
[65] Thakur, *Suicide in India*, 56; 'charndraryana'; 'tapta kurcha'.
[66] Thakur, *Suicide in India*, 49, 53.

corpse; dispatch of the soul to Hell (for an arithmetical equivalent of eternity); prohibition, protected by further sanctions, of the performance of ordinary prayers; and disgrace for the family. Most striking of all is the undeclared presence, in several of the Sanskrit texts, of the same preoccupation with the method of suicide which we noticed in the medieval European. Thus the *Arthaśāstra* of Kautilya refers to 'men and women who under infatuation of love, anger or other sinful passions kill themselves by means of a rope, arms or poison'.[67] The *Yama-smṛti* likewise designates the suicide as the one who who tries to kill himself 'by such methods as hanging'.[68] The *Parāśara-smṛti*—the one of the trio roughly datable, to the seventh century ad (thus contemporary with the sixteenth council of Toledo)—anathematizes the 'man or woman [who] commits suicide by hanging through extreme pride or extreme rage or through extreme affliction or fear'.[69]

Two features of these texts will at once be noticed, one as binding them to, the other as distinguishing them from, their European counterparts. All three mention hanging either first or alone (for two of them hanging is the only method mentioned), suggesting that here too, as for the Roman *suspendiosi*, hanging was conceived as the suicidal method *par excellence*. Two of the Indian authorities, on the other hand, unlike most of their European opposite numbers, also show an interest in motive. The difference may perhaps be explained by the allowance Sanskrit tradition made for religious suicide, which would have given Indian law, like Roman law but unlike post-Augustinian Christianity, a compelling reason for distinguishing motives other than those approved. The distinction only makes the laws' references to method all the more incongruous, incongruous enough to be illogical and hence useless in practice: for a prohibited suicide cannot be pinpointed by reference to both motive *and* method. What would Kautilya, for instance (author of the first of that last group of quotations on p. 543), say of one who did not use 'a rope, arms or poison' but who *drowned* himself 'under the infatuation of love'? The confusion of method and motive blunts the edge of his legislation.

Certain points of resemblance, faint but distinct, were noticed a moment ago between the Indian and ancient western traditions: a prospective suicide's public apologia for his motives; old persons' ritual suicide from a precipice; self-starvation as a judicial procedure. Method-mindedness in phraseology is another. The resemblances would in principle invite explanation. It would have to be in principle, only, because the search for an explanation can lead into a notorious quicksand, one benignly policed to general advantage by specialists with those formidable skills in language, philology, archaeology, and comparative law which alone can license reliable judgement. With appropri-

[67] Thakur, 53. [68] Ibid., 57. [69] Ibid, 58.

ate caution, two categories of explanation can be distinguished. One kind is the Indo-European. This reads the resemblances as representing vestiges of features common to Indo-Europeans from a time long before any written historical records. That theory has nothing intrinsically improbable in it though some of the particular philological, legal, and mythological hypotheses behind it may, as its critics allege, go too far in identifying family resemblances between the two cultures—as, for instance, in the intriguing matter of parallels between Irish penitentials and Brahmin codes.[70] But those who would explain the resemblances in suicide law would not have to go very far down that road to admit the possibility, at least, of a prehistoric identity in the customs' origins.

The other explanation appeals simply to human nature, and teaches that the features common to Sanskrit and European law may be natural, in the same way that men at opposite sides of the globe can be afraid of wild animals without ethnologists' having to explain which taught fear to the other. Horror for suicide, together with a tendency to conceive it in terms largely of method, may in the same way represent a feature of what used to be called the primitive mentality, to which cultural peculiarities are an addition. The evidence of the previous section may speak for this explanation. What can be said for certain is that one or other explanation, or a blend of the two, or a blend with something else that still includes much of one or both of these two, must be true, since to deny both simultaneously would be to leave proven similarities unexplained.

Light may be shed on this question by a visit to a third zone of comparison: Islam.

Suicide Law in Medieval Islam

The world of medieval Islam, stretching as it did from Spain all the way round the southern Mediterranean to Byzantium—as well as beyond, to Iran and

[70] E. Benveniste, *Le vocabulaire des institutions indo-européennes*. 2 vols (Paris, 1969); G. Dumézil, *Les dieux souverains des indo-européens*, 2nd edn (Paris, 1986) and other works. Specifically on penitentials and law codes: J. T. McNeill, 'The Celtic penitentials and their influence on continental Christianity', *Revue celtique*, 39 (1922), 257–300; 40 (1923), 51–103, 320–41; separately published under the same title (Paris, 1923); summarized and defended in J. T. McNeill and H. M. Gamer, *Medieval Handbooks of Penance* (New York, 1938, reprint 1990), 25–6; the criticism is summarized in A. J. Frantzen, *The Literature of Penance in Anglo-Saxon England* (New Brunswick, NJ, 1983) 23–6. More generally, central and difficult Indo-European issues are discussed by scholars in the symposium report edited by G. Cardona, H. M. Hoenigswald, and A. Senn, *Indo-European and Indo-Europeans* (Philadelphia, 1970). Attention is drawn especially to the survey by C. Watkins, 'Studies in Indo-European Language, Institutions and Mythology', ibid., 321–54, and to the caution recommended by D. A. Binchy, 'Celtic Suretyship: a fossilized Indo-European institution?', ibid., 355–67.

the near parts of India—was Europe's big next-door neighbour. Culturally, it was in one respect further away than India. For most Muslim peoples—Iran the main exception—used languages unrelated to the group which bound Sanskrit to the European languages and, in so far as ethnic roots are decipherable at all, had different ones. But the dominant Muslim language, Arabic, was dominant on account of religion. It was the language of divine revelation in the Koran, and from a religious angle Islam was close to Christian Europe. 'Your people and ours,' Pope Gregory VII once wrote to a Muslim prince, 'owe each other a debt of charity above all other peoples of the world, since both of us believe in and worship the same God, albeit in different ways.'[71] The 'same God' the pope there referred to was the Semitic God shared by Jews, Christians, and Muslims, creator and sustainer of the universe, creator and sustainer of man, collectively and individually, of infinite power, knowledge, and mercy. In designing his *Inferno* Dante put Muhammad among schismastics,[72] as having led a breakaway movement from the one true religion. Though idiosyncratic—of course—the choice does no discredit to Dante's deeper theological intuitions. Quite the contrary.

This fundamental relationship is reflected in the character and fortunes of Muslim suicide law. Between its history and the Christian equivalent, family resemblances can be traced, modified only by the different chronological contours of the two traditions and by differences of emphasis, occasionally sharp. Precisely how these similarities between Islam and Christianity came about—how far, for instance, and in what ways, Islam was influenced at birth by contemporary Judaism or even by Christianity directly—raises questions it is luckily not our task to answer. It is enough to recognize that, in the context of the religious history of mankind generally, Islam and Christianity are in important ways of the same family. This recognition will prepare us for the discovery of their resemblances in respect of the character and fortunes of suicide law in the two traditions. Whether every one of the resemblances is genetic, distinguishing Semitic religions from everyone else, is a problem to be addressed later. But it is hard to avoid an impression that the half-dozen more obvious ones seem so: as family resemblances, modified only by the very different chronological contours of the two traditions and, at times sharply, by differences in their doctrine and organization.

To the historian of suicide, pressed for evidence on the subject, the first resemblance to strike the attention is a relative silence, then and now, on sui-

[71] *Registrum*, bk 3, no. 21; ed. E. Caspar, *Mon. Germ. Hist., Epistolae selectae in usum scholarum separatim editae*, vol. 2 (Berlin, 1920–3), 288.11: 'Hanc utique caritatem nos et vos specialius nobis quam ceteris gentibus debemus, qui unum Deum, licet diverso modo, credimus et confitemur, qui eum creatorem seculorum et gubernatorem huius mundi cotidie laudamus et veneramur.'

[72] *Inferno*, 28, 31–6.

cide in Islam. The silence appears to obey a similar set of moral priorities to those on the Christian side. Then, the silence was such as to have been noticed by Muslims themselves: one tenth-century scholar observed how rare it was to find any divine devoting his attention to law on the subject, and professed that he himself only did so because he had been reading Greek philosophers who declared suicide permissible.[73] As for now, modern reticence has been sufficiently general for many students, in and out of Islam, to treat both the act of suicide, and any discussion of it, as so rare as not to count as subjects at all.[74] Since this section of the present chapter, like those before it, has to rely on the findings of relevant specialists, it is fortunate that a distinguished exception has appeared and provided an adit to the subject for non-Arabists. He is Franz Rosenthal, who wrote a path-breaking article on the subject in 1946, and summarized and extended it in the second edition of *The Encyclopedia of Islam* in 1971. My aim in this section, as before, will be to relay specialist findings as they relate to the picture in medieval Europe, drawn earlier in this volume.[75]

The Koran and the *Hadīth*

Reticence on the subject is only one of the resemblances between the Muslim and Christian evidence. A more substantive one—if it is not the same—is the lack of unequivocal guidance on it in Muslim Scripture. Like the Bible, the Koran never says outright, in terms not open to other interpretations, that a believer may not kill himself. Given that the Koran is just over a quarter of the Bible in length, the number of possibly relevant texts is proportionately similar, namely, here, some three or four.[76] All have given rise to differing

[73] al-Qirqisani, quoted by F. Rosenthal, 'On suicide in Islam', *Journal of the American Oriental Society*, 66 (1946), 239–59, on pp. 250–1. This and the same author's shorter article, 'Intihār', in *The Encyclopedia of Islam*, 2nd edn, vol. 3 (Leiden and London, 1971), 1246–8, are indispensable for the reader without Arabic.

[74] The first edition of the *Encyclopaedia of Islam* (vol. 4 (Leiden and London, 1934), 507) has no entry on suicide; cf. *The Shorter Encyclopaedia of Islam*, ed. H. A. R. Gibb and J. H. Kramer (Leiden and London, 1953), 549; nor do I find any breath of it in, for instance, N. J. Coulson's *A History of Islamic Law* (Edinburgh, 1964), making all the more valuable the exception in A. J. Wensinck, *A Handbook of Early Muhammadan Tradition* (Leiden, 1927), 222 (which lists references to suicide in the Hadīth [= Tradition]).

[75] I take this opportunity of expressing my thanks to Professor Alan Jones, for his help with my comprehension of Rosenthal's references and their context, as also, for indispensable guidance in the Oriental Reading Room of the Bodleian Library to Dr Robert Hoyland, and to Mr Colin Wakefield.

[76] Depending on interpretations. Those adduced include Suras 2, 54 (51); 4, 29 (33); 4, 66 (69), and (sometimes) 18, 6 (5). In J. M. Rodwell's translation, republished with a new introduction (and emendation of the order of Suras) by Alan Jones, in the Everyman series (London, 1994), the four passages are respectively on pp. 7, 52, 56, and 189. Rodmell had inevitably to settle questions of meaning still open among Arabists, which makes his choice of words at these points

interpretations.[77] Three envisage believers who 'kill' or 'slay' themselves for godly cause, but the verbs should probably be given a non-literal meaning.[78] A fourth text, on one reading, tells believers *not* to kill themselves, but in language ambivalent enough for most medieval authorities to have preferred a construction not relevant to suicide (it is a constuction that makes an accusative pronoun reciprocal, not reflexive, thus reading the command as telling believers not to kill *each other*).[79] The disagreement on this last text, the nearest to an outright prohibition that the Koran comes, was not exclusively based on philology. The champions of the non-suicide reading said it would hardly be appropriate for the Koran to condemn suicide explicitly, since the act was so obviously wrong that it did not need condemning. The Koran would therefore be demeaning itself by referring to the subject at all. Other interpretations meanwhile pressed the contrary view and interpreted the disputed pronoun accordingly, saying the Koran *did* need to condemn suicide as a warning (they said) to 'Indian fools' and desperadoes. (The expression 'Indian fools' almost certainly meant holy persons who died by hunger strike, of the kind we met a moment ago, and would have been known to Islam through its substantial contacts with India, not to mention aspirants to the same kind of sanctity within early Islam itself—whence (no doubt) the sensitivity.)[80]

While these differences of interpretation are out of bounds to any student not closely acquainted with their language and context, he can draw a lesson from their mere existence. On the moral status of suicide the Koran gives no unmistakable guidance; or, at the very least (if this is not a less theoretical way

unreliable. Professor Jones has kindly let me use passages from a new translation he is himself preparing.

[77] Rosenthal, 'On suicide in Islam' (1946), 240–3.

[78] Sura 2, 54 (51): 'And when Mūsā said to his people, / "O my people, you have wronged yourselves / by taking the Calf to yourselves; / so turn towards your Creator and slay yourselves; / that will be better for you with your Creator." / Then He relented towards you. He is the Relenting and the Merciful' [trans. Jones; cf. Exodus 32: 27–29]. Sura 4, 66 (69): 'If We had prescribed for them: "Kill yourselves" / or "Leave your dwellings", / only a few of them would have done it; / but had they done what they were admonished to do, / it would have been better and more strengthening for them' [trans. Jones]. Sura 18, 6 (5): 'If they do not believe in this discourse / perhaps you will exhaust [*or* "torment"] yourself with grief, following them up' [trans. Jones]. That Sura 18, 6 (5) (words addressed to Muhammad) has been used in connection with the suicide question, however mistakenly, is shown by Rosenthal (1946), 240–3.

[79] Sura 4, 29 (33): 'O you who believe, do not consume your property among you in vanity, but let there be trading by mutual consent among you. Do not kill yourselves. God is merciful to you' [trans. Jones]. Rodmell translates tendentiously 'commit not suicide'. For medieval Muslim commentators the most influential linguistic authority, al-Tabari (ad 830–923) opted for the reciprocal construction (giving a command not dissimilar to that in Exodus 32: 27–29; cf. the last note). An incidental point of interest in the Sura is its juxtaposition of the prohibition with one on prodigality, as in Dante, *Inf.*, 13: 100–23 and pp. 304–5 above.

[80] Rosenthal, 'On suicide in Islam' (1946), 243. On 'Indian fools', ibid., 256 (an Islamic case) and pp. 539–42 above; on desperadoes, p. 381 above.

of saying the same thing) no guidance that has not at some point been mistaken, according to one or other honest and qualified party. In this the Koran resembles the Bible. In this case too, it means our attention has to move from the holy book itself to traditions passed down outside it, traditions still seen as authoritative, if less so than the Koran, and accessory to the latter's interpretation. In Christendom we saw how tradition outside the Bible, and indeed the very translation of the biblical text, expressed and cemented a categorical prohibition of suicide absent, in so many words, from the scriptural canon itself.[81] For all the differences in the structure of religious authority in Islam, a comparable development can be witnessed there.

In Islam, authoritative Tradition as a whole ('with a capital "T"') was known as *Hadīth* (whose English transliteration in this sense is also normally given with a capital 'H'). It had the function of a supplement, corroboration, and elucidator to the Koran. The general *Hadīth* embraced innumerable single *hadīth* (with a small 'h'), that is, traditions. These normally consisted of reports on some utterance or deed of the Prophet. A *hadīth* of this kind normally carried its own historical guarantee in the form of a list of those who had passed it down, the first name on the list being that of the direct witness. These are the *Hadīth*, and *hadīth*, where we have to look for Muslim traditions on suicide. What do they say? The answer is, much more than the Koran, in several ways.

A tradition about Muhammad

The first single tradition to be considered is a report that Muhammad had himself once been tempted to suicide. The *hadīth* in question was preserved by the most authoritative of all collectors of traditions, al-Bukhari (ad 810–870) of Baghdad, who picked it for his big and influential compilation, the *Sahīh* (a name which means 'Of Sound Provenance'). He mentions the story once (though some other *hadīth* he included in several places and redactions), and gives it a line of authority going back, via one 'Urwa ibn al-Zubayr, to Aïsha, Muhammad's favourite wife. ('Urwa was Aïsha's nephew and so could talk to her without impropriety.) This line of authority raises a problem. Islamicists have found the same line attached to some *hadīth* which are certainly 'interpolated', and hence historically unreliable, so that this one tends to compromise rather than guarantee the historicity of the *hadīth*.[82] To

[81] Above, pp. 97–101, 338–9.

[82] According to T. Nöldeke and F. Schwally, *Geschichte des Qorāns*. 2 vols (Leipzig, 1909–19), vol. 1, p. 78, traditions going back to Aïsha are 'sehr unzuverlässig'. Professor Jones assures me the scepticism among modern scholars has grown rather than shrunk since those authors wrote.

use the expression taught to us by the search for medieval European suicides, we are in the presence of another 'split tradition'. There is no saying whether the story is historically true. All that is certain is that it was believed as true by the judicious al-Bukhari, whose authority was accepted by Muslims in the ninth and subsequent centuries (and still is). That by itself has historical significance, if only in its alignment of Muslim tradition in this particular with that of the Jewish figure of the 'Weary Prophet', encountered earlier in this volume: the Prophet who expresses weariness with his life and even asks God to end it. The Muhammad story is only a slight variant.[83]

The story in al-Bukhari's *Sahīh* concerns the beginning of Muhammad's mission, when he had had his first revelations from the angel Gabriel. Becoming aware of the opposition their publication was likely to arouse, Muhammad fell into a crisis of uncertainty. The revelations suddenly stopped, simultaneously, as it chanced, with the death of the supportive Waraqa ibn Nawfal (a cousin of Muhammad's first wife Khadīja). These are the words as given by al-Bukhari:

> After a few days his uncle Waraqa died and the Divine Revelation was also paused for a while and the Prophet became so sad as we have heard that he intended several times to throw himself from the tops of high mountains and every time he went up to the top of a mountain in order to throw himself down, Gabriel would appear before him and say, 'O Muhammad! You are indeed Allah's Messenger in truth,' whereupon his heart would become quiet and he would calm down and would return home. And whenever the period of the coming of the Revelation used to become long, he would do as before, but when he used to reach the top of a mountain, Gabriel would appear before him and say to him what he had said before.[84]

To approach this *hadīth* from a background in medieval Latin Christendom is to be struck by four features. The first is the faint echo it carries of the Gospel story of the Devil's temptation to Jesus to throw himself from a pinnacle of the Temple, in the trust that God's angels will prevent his coming to harm (to which Jesus answers, 'It is written, "Thou shalt not tempt the Lord thy God" ' (Matthew 4: 5–7)). The echo remains faint, in that it is doubtful whether it is suicide that the Evangelist Matthew had in mind. Supposing it were, a structural difference in the two accounts is that in Jesus' case it is the temptation, in Muhammad's, rescue from temptation, that is ascribed to the supernatural agency. The prophet's own human judgement has the opposite role.

[83] Cf. D. Daube, 'Death as a release in the Bible', *Novum Testamentum*, 5 (Leiden, 1962), 82–104; and above, pp. 96–7.

[84] Sahīh al-Bukhâri, Book of the Interpretation of Dreams, ch. 1. With very slight corrections of the English (and the rendering of *Jibrīl* by Gabriel) I quote from the bilingual edition by M. M. Kahn, 9 vols (Riyadh, 1997), vol. 9, p. 84.

From a medieval European viewpoint three other features in the story deserve comment. The *hadīth* envisages Muhammad in old age, reminiscing to a young wife who cannot have been alive at the time of the alleged event, about a private crisis in his life as a younger man, a crisis apparently kept secret until then. If there is any psychological verisimilitude there—and European analogues could be found—it may or may not corroborate the story historically, but certainly reflects a certain subtlety in the literary milieu that gave it birth. Second, whatever this particular *hadīth* supplies, it is not the Koran's lack of a specific, categorical condemnation of suicide. All the angel Gabriel is concerned to do, in that episode, is heal a particular uncertainty which had pushed Muhammad to an extreme: 'do not do it; you *are* Allah's messenger,' he assures him. Here is a 'special divine command' on the model of the Stoic principle, but the other way round: a mirror image of the Stoics' picture of Cato, or Augustine's of Samson, who (according to that principle) received a special command (or licence) *to* kill themselves. Thirdly, and despite that limitation based on strictly juristic grounds, if the story is read simply as literature it carries a strong implicit message in the opposite direction. It is humanely anti-suicide. Any hearer could identify with the plight of the hero and recognize, with relief, the opportune intervention of the sufferer's guardian spirit with his message: 'Hold back: God has a task for you.' It is an exercise in the mapping of mental desolation.

The condemnation of suicide

So much for that one *hadīth*. Turning to the more comprehensive Tradition, we find it amply supplying the lacuna left by the Koran. It quickly established that suicide was a gravely wrong act, punishable in Hell; 'quickly' meaning this was established at latest by the eighth century ad (Muhammad had died in ad 632, so we are talking about a period of a century and a half, or less). That suggests the development was faster than in the case of Christianity, though gaps in the evidence on the Christian side make that conclusion uncertain.[85] As I have suggested happened in early Christianity, the development almost certainly involved the incorporation into Muslim religious tradition of principles which had existed before it. Muslim tradition was in this respect, as I said earlier of its Christian counterpart, like a herbivorous animal, grazing on available material, accepting and rejecting food on the principles which govern its metabolism. Either tradition, in other words, could choose to sanction pre-existing taboos without denying its own essence.

Evidence for this process of incorporation may lie in the history of the very

[85] As shown especially in Chapters 3 and 10 of this volume.

word *intihār*, which became the main word for 'suicide' in Muslim law, and keeps that meaning in modern Arabic, Turkish, and Persian.[86] Like the Latin word *suspendiosus*, *intihār* originally referred to one method of suicide: in this case the piercing or cutting of one's own throat.[87] In Hebrew and Greek, as well as Latin, a study of the most primitive usage suggests that the terminology for suicide first emerged through its association with an arresting visual image.[88] The Arabic redeployment of the method-minded word *intihār* represents a similar transition and a similar early date. It is not found in the Koran, in the *Hadīth*, or indeed in any early Muslim legal source. It is, on the other hand—only very occasionally, it is true, but enough to prove conclusively it was there—found in use for 'suicide' in an Arabic context *out*side early Islam, in poetic and proverbial contexts echoing an earlier idiom.[89]

To suggest that a categorical condemnation of suicide entered Islamic tradition in the same way as the word *intihār* would be to make big assumptions, assumptions not only dangerous from the point of view of our understanding of religious history but unjustified by the history of that word (as well as being at odds with what little we know of suicide among pre-Islamic Arabs).[90] The moral condemnation of suicide is unlikely to have been simply ingested, complete, from pre-Islamic culture. To resume the image of the grazing animal, the animal's metabolism transforms as well as selecting the fodder it takes in. The question how the development in early Islam came about is therefore difficult if not impossible to answer. So let it be left aside for now, in favour of mere recognition that, within a century or so after of Muhammad's death, the *Hadīth* is to be found firmly condemning suicide, *qua* suicide.

On one hand the *Hadīth* endorsed reports—each with its authenticating chain of witnesses—that Muhammad had reproved suicide in particular instances. Thus in one *hadīth* he had refused to pray for a particular suicide on grounds of the way he had died.[91] In another, a wounded man had killed himself in Muhammad's presence and God had said, via the Prophet, that 'since my servant anticipated my action by taking his life in his own hand he will not be admitted into Paradise.'[92] On yet another occasion, when Muhammad had foretold that a certain man would be doomed despite his acknow-

[86] Rosenthal (1971), 1246. [87] Ibid.

[88] D. Daube, 'The Linguistics of Suicide', *Philosophy and Public Affairs*, 1 (1972), 387–437; cf. A. J. L. van Hooff, 'Self-murder, a new concept in search of a Latin word', in *Eulogia. Mélanges offerts à Antoon A. R. Bastiaensen.* Instrumenta Patristica, 24 (Steenbrugge, 1991), 365–74; and above, 495–504.

[89] Together with the indications in Rosenthal (1971), I thank Professor Alan Jones for information about the use of the word in early Arabic poetry.

[90] For the 'Old Age Pension' suicides of some early Arab leaders see n. 106 below.

[91] Rosenthal, 'On suicide in Islam' (1946), 245. [92] Ibid., 243–4.

ledged valour in holy war, the prediction was taken as fulfilled when the warrior, mortally wounded in battle, fell on his own sword to shorten his sufferings.[93]

Ad hoc verdicts of this kind apart, the *Hadīth* also remembered Muhammad as having prohibited suicide in so many words. Unlike the Aïsha story about Muhammad's private temptation, this prohibition was put in all the main collections of *hadīth* (al-Bukhari gives it in three places), yielding a total of at least a dozen versions. The fullest, very slightly collated, run like this:

> Whoever strangles himself will repeat his deed in the Fire, and whoever kills himself by stabbing his own body with some steel instrument will repeat his deed in the Fire. The same goes for the man who poisons himself or precipitates himself from a high place.[94]

This formulation reveals two peculiarities worth our attention, one distinguishing it from, the other attaching it to, Latin and other analogous formulae. A distinguishing feature is its adaptation of the Koran's *lex talionis* principle ('an eye for an eye'),[95] a principle which makes the punishment fit the crime, in this case by sentencing the suicide to a prolonged repetition of the act which killed him. (I say 'prolonged' with hesitation, because some versions of this *hadīth*, according to some readings, treated the punishment of Hell as lasting for less than eternity—despite, as the majority of critics would read it, repeated, unmistakable assertions in the Koran to the contrary.)[96]

From our western viewpoint, the second peculiarity is familiar, and hence instructive. I said just now that this *hadīth* condemned suicide 'in so many words'. In fact it uses *more* words than we would think necessary. It would have been enough to say merely 'whoever kills himself will repeat his deed in the fire.' The wordiness invites comment. One of its contributing factors may well have been its borrowing of a template of expressions used in the Koran to describe forbidden foods, 'that which has been strangled . . .' and so on. In that case an older set of dietary prohibitions can be seen as providing conceptual help towards a definition of suicide, still unarticulated.[97] With or without that factor, the method-mindedness of this *hadīth* is strongly reminiscent of that of the European and Sanskrit formulae already familiar, a similarity which would confirm that, with or without assistance from its dietary near neighbours, the concept of suicide groped its way towards formulation by way of the arresting images of particular instances: to see a man hanging or

[93] Ibid., 245. [94] Quoted ibid., 244. [95] Cf. Sura 5, 45 (48).

[96] e.g. Suras 2, 37 (39); 3, 112 (116); 5, 83 (83); 7, 36 (36). Such expressions number well over two dozen. Cf. Rosenthal (1946), 244.

[97] Cf. Sura 5, 3 (3).

stabbing himself is to grasp instantly what kind of moral act he is engaged in.[98]

This gets further support from another peculiarity of the *hadīth*. In most surviving versions (including the one I have given) its continuity breaks halfway through. The first and second pair of methods are dealt with separately as a glance back at p. 555 will confirm. This would be consistent with the two pairs' having arrived in successive stages. We have seen signs that this may have happened elsewhere, most palpably in the case of the so-called *Judgements of Theodore*, which we saw was probably written down in roughly the same years as the *hadīth*.[99] Indeed, the text of the suicide law in *Theodore* bore marks of its having been composed in *more* than two stages, the very first of its prohibitions having quite possibly arrived on its own; and may suggest a similar development in the case of the *hadīth*. That is, the ban on suicide by strangling (meaning hanging) may have arrived first, to be paired up soon afterwards by its more heroic companion (stabbing), later to be joined by a second pair of methods which seemed (for reasons which I am suggesting were still mysterious to the formulators and hence unarticulated) to belong with the first pair.

This is hypothesis. In searching for family likeness we must beware of *petitio principii* (circular argument), and there is enough evidence for resemblances without resorting to it. There is certainly enough to shed more light on one question raised by the Braga suicide canon of 561, the question raised in the previous section of this chapter: whether that canon's method-mindedness represented a spontaneous invention or an archaism common to Indo-European peoples. After reading the Arabic *hadīth* it looks more and more as if we are in the presence of an archaism *tout court*.

Distinctions and oscillations

Besides this striking resemblances in the history of Muslim and Christian suicide law—the reticence of Scripture, and the completion of Scripture on this point by authoritative tradition—there are other resemblances, less general, which confirm the impression they give. One such is an insistence by early Muslim authority that, for self-destruction to be culpable, the intention must be involved. A *hadīth* encapsulating this distinction was recorded by al-Bukhari and other authoritative ninth-century collectors in at least half a dozen versions. A poet contemporary to Muhammad had accidentally stuck his sword into himself and died, in battle, and the *hadīth* makes clear that this

[98] Above, 501–2 and 553–4.

[99] Above, 252–9. The *Judicia Theodori* are thought to date from around the late seventh century ad.

was *not* suicide. By now we are habituated, by western canon law as by the Jewish *Šĕmahot*, to the need for us historians to read such laws both ways up. This law states the distinction of accidental and intentional suicide. Implicitly, it reveals that the distinction had been commonly ignored.[100]

Another, similar category of resemblance touches attempt. A story repeated by a modern Muslim scholar and attached to the Caliph Omar (ad 634–44), conveys the impression that in early Islam, as in medieval Christendom, suicide imparted its oscillating character to survivors' reactions. They felt two opposite things at once. Thus while an attempt was intrinsically shameful, sympathy for the perpetrator should seek to relieve him from shame. The story in question told how a girl had tried to kill herself after committing a grave sin and was now on the point of marriage. Her father appealed to the Caliph Omar (in Damascus) to ask whether her prospective husband should be informed of the attempted suicide. (The situation recalls, *mutatis mutandis*, that faced by classical Roman law when it decided whether the seller of a slave is bound to reveal to the buyer a past attempt at suicide by his prospective merchandise.)[101] The Caliph Omar replied emphatically: on no account should the girl's attempt be revealed; since God had concealed it—by not letting it succeed—no one else should break her secret. In other words, an attempt at suicide was generally held shameful but it was the wish of a compassionate and merciful authority to overlook it and cover it up.[102]

Two more familiar features concern the question whether suicides should be prayed for, and whether the topic of suicide is a fit one for theological discussion. The oscillations of suicide are visible here too. In respect of prayers, mention was made earlier of Muhammad's alleged refusal to pray for a suicide. While that encouraged one line of later tradition to say suicides should never, ever be prayed for, another current of thought insisted that every dead Muslim should be prayed for, even this kind. In the dark-age west we saw the same oscillation, again *mutatis mutandis*, in the clash in canon law between the authorities of Braga and Theodore. In Islam, as in the west in its own way, the oscillation admitted a compromise by way of a distinction between public and private prayer. Thus in Islam, some authorities said that suicides should *not* have prayers from the Imam (that is, official public prayer) but *could* be prayed for by relations and friends.[103]

As for the propriety of theological discussion, finally, the urge to break the subject's native reticence appears to have come mainly, in Islam as later in

[100] Rosenthal, 'On suicide in Islam' (1946), 244–5.

[101] Above, pp. 180–1.

[102] Rosenthal, 'On suicide in Islam' (1946), 245. Professor Rosenthal reads the story as implying that no lifelong blemish arose from an attempt at suicide. But if the attempt had not been widely thought shameful there would have been no purpose in concealing it.

[103] Rosenthal, 'On suicide in Islam' (1946), 245. For the position of (for instance) Pope Nicholas I, see pp. 267–9 above.

Christendom, from provocation by classical philosophy. The tenth-century Muslim scholar quoted earlier in this chapter, al-Qirqisani, said that he himself had only been stirred to speak of the subject by reading in a Greek philosopher that suicide might be lawful. The main Greek philosophical texts were known to Muslim theologians within two centuries of the birth of their religion, so the time-scale of this reaction was different from that in western Christendom. Western divines had six or seven centuries to preserve their relative reticence, before being provoked by a conscious revival of Latin Stoic literature in the age of John of Salisbury. For all this difference in chronological contour, the outcome in Islam was again not different in kind and came in the form of written disquisitions, growing more numerous in the late tenth century. These usually explained, *contra paganos*, why suicide was wrong, on grounds all familiar—though the community demands of Aristotle's *polis*, the late scholastics' anti-suicide argument *par excellence*—are noticeably absent. When at all pressed, a Muslim divine will say simply that suicide is condemned by custom and by all right-minded people, alias (to quote a well-known tenth-century authority) 'the discerning and ingenious, religious and noble'.[104]

Types and levels of suicide in Islam

The resemblances mentioned so far have been internal to the law, and belong specifically to the legal history of both cultures. One last resemblance was external to it. In Islam, as in Christendom—and despite Muhammad's example, despite custom, despite the *Hadīth*, despite the consensus of the discerning and ingenious, religious and noble; and despite all other legal principles available against suicide—people *did* kill themselves. And they did so in response to a range of circumstances not, on the whole, very different from those encountered in medieval Christendom. The main categories can be recalled from the roll-call in the 'chronicles' part of *The Violent against Themselves*: the disgraced official, the defeated soldier, the overthrown politician or heretic (in Islam closer than in Christendom to the same thing).[105] Suicides from other motives have to be surmised from a literature less precise in historical reference. The reference is sometimes less precise because distant and vague, as in allusions to the 'Old Age Pension' type of suicide, attributed

[104] The phrase is from the respected philosopher Abū Hayyān al-Tawhīdī (ad *c.*922/32–*c.*1023), whose *Muqābasāt* (where it appears in the course of a discussion on the subject) is extensively précised by Rosenthal, 'On suicide in Islam' (1946), 250.

[105] Rosenthal, 'On suicide in Islam' (1946), 256–9, lists 45 instances within ad 644 and 1488, including 5 attempts, and 2 suicides by non-Muslims though in a Muslim context. Mr D. S. Richards, of the Oriental Institute in Oxford, has collected further examples. Their ensemble appears to show that suicide was 'rare but not very rare'.

to certain early Arab tribal leaders, when too old and weak to maintain their authority. Sometimes the reference is overtly 'literary'. Thus there are allusions to threats or possibilities of suicide, even to suicide notes, in a rich Arabic literature of poetry, romance, and proverb. The relation of such literature to hard fact, problematic anyway, is made more so by the frequent employment, by the literature, of metaphor and rhetorical exaggeration. For such exaggeration, suicide is a natural food. In this too, of course, Islam keeps its resemblance to western counterparts, though in what ways and degrees would have to be the subject of an essay in comparative literature. In *The Thousand and One Nights* (to take one example—and whatever the precise standing of that work as historical evidence may be) the motif of a lover's threatened or actual suicide is quite as much at home as in western analogues.[106]

Differences

I have insisted on the resemblances of the two histories. History is all about similarities and differences, bound together, and which of the two meets the eye depends partly on what the searcher is expecting and looking for. The medieval rivalry of Christendom and Islam, and the lack of family resemblances in many aspects of their cultures (like language) have here thrown resemblances of their suicide laws into relief. The reality was nevertheless too complex to be captured in so simple a formula. To go no further than the Sanskrit laws in the previous section, after all, is to explode the idea of a wholly exclusive 'Semitic Club' in respect of suicide. For the *Hadīth* suicide ban resembled also its eastern analogues, with all its method-mindedness. As a reminder of differences with*in* the Semitic Club I will end by drawing attention to one, which invokes many others.

Besides being a subject for religious morality, suicide is a kind of violent death. Since political authorities normally monopolize violent death in the forms of military killing and execution, the history of attitudes to suicide is bound to be affected by that of the relationship between political and religious authority. The chief peculiarity in the history of pre-modern Latin Christendom was its separation of these two authorities, in theory and, to a considerable extent, also in practice. In Islam the two authorities were identical, with the same qualification; and this difference could not avoid leaving its effect in the history of attitudes to suicide, in their respective cultures. The effect passed through two routes. One led through the question of martyrdom. We saw in Chapter 3 how St Augustine and his immediate predecessors

[106] Rosenthal, 'On suicide in Islam' (1946), 246–7, 251–6 (for instances). Cf. *The Violent against Themselves*, 286–94.

had had to discover an articulate Christian view of suicide because of state persecutions of their church: some Christians had been only too ready to provoke the Emperors to kill them, and the Fathers had therefore had to define how suicide differed from martyrdom. Constantine's conversion transformed the matrix of that question, but the doctrines it had given birth to endured, so that all later Christians had a clear theoretical distinction, forged in that age, between the two kinds of death, one at the top and the other at the bottom of the moral register.

The Roman matrix of early Christianity had a second, analogous effect, in distinguishing Christian and Muslim views. This time the effect passed through war. In reflecting in the previous volume on the position of the medieval military nobleman, we found another zone where the best and worst kinds of death might be hard to distinguish: the death of a brave soldier. To fight for a just cause without fear for one's life was the height of virtuous courage, but fearlessness could reach a point where it was indistinguishable from suicide. That was the predicament of the blind King John of Bohemia in 1346, led, at his request, to the thick of the fighting at Creçy, and cut down at once; and that of the anonymous crusader in 1291 who, alone and on a solitary initiative, charged the massed armies of Sultan Baybars at the siege of Acre.

The report of that knight's charge reached the schools of Paris and occasioned a debate on the undoubtedly difficult issue. What was courage, and what was suicide? In the heat of a particular battle, what counted as the highest virtue, and what as the most abysmal of sins? In practice, this area was often grey. In Christendom it never became so in theory, and answers to the question 'why not?' can be found in both doctrinal and political history. In *The City of God* Augustine had been palpably embarrassed by the example of Samson, in that Samson's status as one of Israel's great men of faith had been confirmed beyond doubt by St Paul, yet he had died by what we sometimes call by the Japanese word, kamikaze: killing an enemy in the sure knowledge that one will oneself die in doing so. Samson's self-homicide was more than a case of courage in an uncertain situation, like that of the average front-line warrior. The blind Samson had *known* he would die in killing the Philistines. Augustine did not hesitate. Although it was a weak doctrine—that of the special divine command—that Augustine employed to neutralize his dilemma, he never would have fallen into the dilemma but for an unshakeable intuition that kamikaze was suicide, an intuition all the stronger, in Augustine's own mind at the time, for his recent exercise in distinguishing suicide from martyrdom.

To find a political reason for the Christian position, distinguished at this point from that of a recurrent position taken by certain Muslims, we have to

look at the respective relationships of both traditions with war. A Christian, at any period, had a bigger ideological distance to travel than a Muslim had before he could fight for his faith. Christianity had not had to conquer its own frontiers. That conquest had been achieved by the very Brutuses, Caesars, and Scipios whose respect for heroic suicide caused such unease to theologians a thousand years later. Christians at that stage only had to *die* for their faith, and their requirement to do so, under certain circumstances, was what called up those nice definitions of suicide. What the early Christians definitely did not do, and for a long time many of them insisted they should never do, was *kill* for their faith. Although that position was modified when the Empire became Christian, and then modified again, with different corollaries and nuances, in the Middle Ages, the ghost of early Christianity continued to haunt all Christian military enterprise. That is why, even at the height of the eastern crusading movement—and even though the idea of that movement had begun as a merely defensive notion, after the Turkish conquest of Anatolia in 1071[107]—there were voices in the west saying Christians should not be fighting.[108]

Islam was in quite another position. To survive at all, early Islam had been obliged to make its own frontiers. It did so with extensive and enduring effect. This fact and, related to it, the Muslim identification of political and religious authority, brought the centre of gravity in Muslim doctrine nearer to the virtues of the religious warrior; and that, in turn, had the effect of weakening, at the edges, in a corresponding degree, any doctrinal distinction between military martyrdom and suicide.

These circumstances explain an Islamic current sometimes known as the *Shurat*. The term was drawn from the Koran, and meant originally 'those who sell their life to God and set an example to others'.[109] The earliest representatives of the movement, soon after Muhammad's own lifetime, formed a subdivision of the Karijite sect. They were defeated and decimated by Muhammad's cousin Ali, but their appeal proved ready to revive whenever political circumstances were right. The current is recognizable in every century of Muslim history. The Assassins of the crusading period are just one example, but a vivid one. All readers of crusading history recall the mission of Count Henry of Champagne to the Assassin chief, the Old Man of the Mountains, in 1194. The Old Man's ostentatious welcome included a display of his followers' obedience, so that at a mere sign from their chief they would leap

[107] Gregory VII, *Registrum*, bk 1, no. 49 (1 March 1074); ed. Caspar (see n. 71), 75–6.

[108] The fullest exploration of the variety of views on this question, to my knowledge, is that of B. Z. Kedar, *Crusade and Mission: European Approaches towards the Muslims* (Princeton, NJ, 1984).

[109] L. Massignon, 'Shurāt', in *Encyclopedia of Islam*, 1st edn (Leiden and London, 1934), 392–3; cf. *Shorter Encyclopedia of Islam* (Leiden, 1974), 544–5.

to their deaths over a cliff until the envoy begged for the display to stop, and returned to his compatriots to share his stupefaction.[110] Those followers were selling their lives to God and setting an example to others.

The *Shurat*, and its aliases, have a history of their own. It is not the purpose of the present study to follow it, only to identify the history as one sign, among several, that Christian and Muslim suicide doctrines were not the same, and to record that there were reasons for the difference, reasons leading to a hundred more differences in law and milieu. The simple principle that has informed this section is not, for all that, misleading. The Semitic God, creator and sustainer of all men, all-powerful, all-knowing, and universal judge, was at the same time infinitely merciful. In his presence, regardless of whether it was in a Hebrew, Latin, or Arabic culture, suicide had to have a double character. For it was an object simultaneously for God's judgement and his mercy. This oscillation, as I have called it, could only have been halted by the erosion of one or other element in that distinctive concept of God.

There remains one last field of possible difference, which a student of medieval western suicide should mention. A general conclusion of the most authoritative students of Islam, including its path-finding student of suicide, Franz Rosenthal, is that suicide was 'very rare' in medieval Islam. This conclusion carries a weight which a non-Arabist can only respect, but the experience of medieval European research in this field sounds a note of caution. We know for sure (to begin with) that a strict ban on suicide, backed as it may be by the strongest religious sanctions, does not stop suicide altogether, though it may diminish it. What it certainly does is drive suicide into hiding, and that includes hiding from historical research. Its hiding-place was likely to be secure, in its own age and therefore in later ages, unless some contemporary has both an interest in breaking into the refuge, and the means and motive to record what he finds. The king of England after *c.*1200 was this kind of contemporary, and his means and motive more than doubled the dossier of cases known from all other European sources, of all genres.[111] Transferring this model to medieval Islam, it would have to be shown that documents of this kind were present there, but bare of suicides, before the comparison with Europe became more than a matter of impressions.

Oblique considerations also bear on the question. Islam's strong predestinarianism, telling the individual 'this is your divine destiny: bear it,' may have weakened motives for suicide. Again, Christian rules on celibacy may have presented too much of a challenge to young religious, and been responsible for some suicides—a question I hope to address in the third volume. But pending research on similar principles to those employed in the first, there are

[110] *The Violent against Themselves*, 70.
[111] Cf. ibid., Register on pp. 423–69.

grounds for a cautious approach to the impressions even of the best-qualified modern Arabists.

If that sounds too sceptical, let me surrender far enough to allow the opinion of a medieval scholar: Bab ben Yahia. He was born *c.*1015, travelled widely in the Muslim world, and at a date between 1049 and 1055 joined Monte Cassino as a Christian monk. After many years spent translating Arabic scientific works into Latin, he died *c.*1086, as 'Constantine the African', the name by which he would subsequently be known in the west. Constantine's analysis of the affliction known in Arabic as *mālīhūliyā*, namely the Greek *melancholia*, begins with what seems like a declaration that there is more melancholy in Christendom than in Islam, for he says melancholy is 'especially prevalent' in 'these parts'.[112] Whether Constantine merely said this to recommend his book; whether he envisaged the kind of *melancholia* that led to suicide (there were other kinds, lost to modern usage); and whether, if both these conditions applied, Constantine's impression can serve as a reliable estimate when so much other evidence is lacking, are questions too big for this immediate context. Our present concern is law and not, primarily, its subjects. So let us now leave them where they are, and in pursuit of our legal quarry, take another step closer to medieval Europe.

Suicide and the Early Germans

Our attempt to discover, outside medieval Europe, a source for the suicide customs, began by establishing a series of surviving references chronologically scattered over a thousand years, to comparable suicide customs in the Mediterranean world. The present chapter has sought to interpret the references by calling in aid from modern anthropology, from ancient and medieval India, and from Islam—both the latter two cultures harbouring resemblances, and perhaps affinities, to that of medieval Europe. The next two areas of comparative investigation have been selected from a more distinctly historical angle, on the basis that our medieval customs might, hypothetically, have come from there. There is a natural place to start. It is surely among the early Germanic peoples. The councils of Braga and Auxerre, after all, which begin the medieval part of the history, were held in Germanic kingdoms, Visigothic and Frankish respectively. Roman and Greek traditions have been combed for antecedents to the suicide law, and a search for its origins would be incomplete if not extended to the early Germans.

Readers unfamiliar with the names and origins of the early German people

[112] Constantinus Africanus, *De melancholia*, ed. K. Garbers (Hamburg, 1977), 84.

may welcome a schematized sketch of these, and in particular of the Germans' threefold grouping into western, eastern, and northern—as a key to what I shall have to say later on. (Readers who know it already can skip to the top of the opposite page.)

Who were the Germanic peoples?

Of the eastern Germans, the Steppe horsemen who sped through the Empire in the late fourth and fifth centuries, the most prominent were the Goths, their own eastern and western divisions designated respectively as Ostrogoths and Visigoths. Missionaries had converted both groups to Christianity in the fourth century but in an Arian, heretical version which kept them apart from the Catholic clergy and the western populations they overran until the Visigoths, by then in Spain, underwent a precarious conversion to Catholicism *c.*550. The Council of Braga was thus held in a kingdom very recently converted from Arianism.

The western Germans had meanwhile spread more slowly from homelands near the Roman frontier. Those who settled and acclimatized came directly from paganism to Catholicism with no heretical phase in between. Probably for both reasons—the slowness and the Catholicism—they formed the lasting kingdoms that came gradually to be known as Anglia and Francia, names accepted, by the seventh century, as simplifications from the kaleidescopic nomenclature used by Latin writers of western Germans from Caesar's time. The third main grouping were the northerners or the Norse. Held back by a watery barrier that horses could not cross, the Scandinavians' migration had to wait four centuries after the time of the other Germanic migrations until they had mastered the arts of the ship. By the so-called Viking age (from the late eighth to the early eleventh centuries) the earlier Germanic settlers had long established Christian kingdoms, in contrast to which, at this date, the Vikings arrived as pagans. This dislocation of three or four centuries had an important consequence. It meant that in Scandinavia, alone, Germanic paganism survived to a time when it could be reported on carefully in writing, especially because a vigorously literate neighbouring culture, theologically alert, was able to observe peculiarities among their pagan Nordic neighbours. Twelfth-century Latin historians' accounts, as well as a burgeoning Scandinavian tradition in epic and law, thus make Scandinavia a precious window on to pre-Christian Germanic belief.

Even without the addition of the earlier, more scattered windows on to Germanic world provided by Latin and Greek writers before and after the fifth-century invasions, the relevant literary output soon became large, and was augmented, from the ninth century, by the occasional Arab itinerant

anthropologist. The enquiry that follows will therefore again rely on modern specialists. There will be questions afterwards. The specialists' findings will be set out without any anaesthesis of our critical sense. But only a thorough knowledge of the literature, in its various early Germanic languages, can authorize an initial judgement about its nuances and omissions.

A consensus: no suicide taboo among the early Germans

Of the nuances and omissions in the Germanic evidence the latter, the omissions, are especially important. They include the omission of any hint of a suicide taboo. Among the unanimous conclusions of some five Germanists who have studied suicide in this period is that they find no trace of any suicide phobia.[113] Not merely do actual cases of suicide by early Germans abound both in Latin histories and in native epic literature; the act of suicide is sometimes referred to as positively honourable. A few examples will illustrate this. The early third-century Greek historian, Dio Cassius, describes the suicide of a member of the retinue of King Gaiobomar of the Quadi (a western Germanic tribe then under Roman obedience). The man in question had been accused of a crime by his king and hanged himself, and the Quadi asked for, and got, permission from the Roman authorities to mutilate the body in order to make it seem as if the man had died as a result of judicial execution, precisely because (Dio says) 'a death by one's own free will is accounted honourable among them.'[114] Less direct evidence of the same purport is to be found also in Scandinavian sagas. Nowhere do the sagas show any sign of a hatred or phobia for suicide, though occasionally we might expect it. Icelandic sources, for instance, make much of those most solid of ghosts, the *draugr*, the corpse that wanders dangerously at night unless ritually neutralized (for instance, by a stake through the body). Nowhere do the sagas say any *draugr* is a suicide.[115]

On the contrary, among some Germanic peoples, certain kinds of suicide

[113] G. Trathnigg, 'Über Selbstmord bei den Germanen', *Zeitschrift für deutsches Altertum*, 73 (1936), 98–102; A. Dieck, 'Selbsttötung bei den Germanen', *Archiv für Religionswissenschaft*, 36 (1939), 391–7; H. Engster, 'Das Problem des Witwenselbstmordes bei den Germanen', Diss. Göttingen, 1970; R. Engfield, 'Der Selbstmord in der germanischen Zeit', *Seminar*, 8 (1972), 1–14; Knapp, *Selbstmord*, 24–8.

[114] Dio Cassius, *Roman History*, bk 78, ch. 20, §3: '*ἐπέτρεψε τοῖς βαρβάροις τὸν νεκρὸν αὐτοῦ κατατρῶσαι, ἵν' ὡς καὶ καταδεδικασμένος ἐσφάχθαι, ἀλλὰ μὴ ἑκουσίως, ὅπερ εὔδοξον παρ' αὐτοῖς ἐνομίζετο, τετελευτηκέναι νομισθείη.*' Cf. Trathnigg, 99.

[115] Affirmed by Engfield, 'Der Selbstmord', 2, on the basis of his own researches and those of E. A. Ebbinghaus, 'Die Vorstellungen vom lebenden Leichnam in der ältislandischen Literatur', Diss. Marburg, 1951. On the *draugr* or 'undead' see also E. Mogk, 'Altgermanische Spukgeschichten', *Neue Jahrbücher für das klassische Altertum*, 43 (1919), 103–17; J. de Vries, *Altgermanische Religionsgeschichte*, 2nd edn, 2 vols (Berlin, 1956), §168, p. 234. J.-C. Schmitt, *Les revenants*, 27, 261 n. 5; and above, pp. 472–3.

had the rank of established institutions. The main candidate in this category is what I called in the last section the Old Age Pension suicide.[116] Pliny, at the end of the first century ad, ascribed to a people he calls the Hyperboreans (the name means 'Those who Live at the Back of the North Wind') the custom of making old people throw themselves to their death from a certain rock.[117] The same custom is independently attributed to the Visigoths in the third century. Their old folk were to throw themselves from 'the rock of the ancestors'. One of the earliest Scandinavian epics, the older version of the *Gautreck Saga*, refers to a peasant who threw himself, together with his wife and son, from a cliff 'formerly' used by the old for this purpose.[118] We are entitled to ask whether these references really point to a historical practice. Although these are the only three references to it they find modest corroboration—in so far as consistency counts as such—in the well-attested Germanic belief that bodily weakness was a dangerous condition in which to approach death. That meant a German had to be healthy to make the journey to the next world,[119] a condition which would favour suicide, as it favoured death in battle. There is therefore something to be said for, and nothing against, the reality, at some epoch, of the Old Age Pension suicide, though we know it cannot have been universal since certain sources also speak of Old Age Pension *murder*, that is, the killing of old and sick people with or without a nuance of human sacrifice.[120]

Even more problematic are references in Germanic myth, epic, and folk-tale to a special kind of suicide in the Pension category, for which India has given us the term 'suttee'. By it, a widow kills herself on her husband's death.[121] Thus in early versions of the *Sigurdlied*, Brunnhilde stabs and immolates herself on a pyre, on the death of her common-law husband Sigurd. The only allusion to this practice, however, other than such possible echoes in imaginary narrative, are at best ambiguous. A recent study of them, by Engster, allows authority only to Procopius, writing in Byzantium in the sixth century, who says of a west Germanic people then living on the Danish islands—the Heruli—that they expect a widow to offer herself for strangulation on her husband's grave-mound.[122] Although some archaeological find-

[116] Suicide and euthanasia for the old: J. Grimm, *Deutsche Rechtsalterthümer*, 4th edn, vol. 1, 669–75.

[117] Pliny, *Hist. naturalis*, bk 4, ch. 12 (§§89–90): 'mors non nisi satietate vitae epulatis delibutoque senio luxu e quadam rupe in mare salientibus; hoc genus sepulturae beatissimum.' Parallels in Pauly-Wissowa, *Realenzyclopädie*, vol. 17 (1914), col. 274. Cf. Bourquelot, 'Recherches', pt I, p. 552.

[118] Trathnigg, 'Über Selbstmord', 101.

[119] De Vries, *Altgermanische Religionsgeschichte*, §141, p. 188.

[120] Trathnigg, 'Über Selbstmord', 101.

[121] For the following: Engfield, 'Der Selbstmord', 9–13; Knapp, *Selbstmord*, 93–4.

[122] Engster, 'Witwenselbstmord', 170; cf. Engfield, 'Der Selbstmord', 11–12. Procopius' account is in his *Gothic War*, bk 2, ch. 13.

ings are not inconsistent with this practice, these findings, too, remain ambiguous. Two mentions of suttee among the Germans' neighbouring Slavs—a mention by Boniface of Mainz *c.*740, and another by the tenth-century Baghdad traveller al-Masudi—only highlight the absence of reliable allusions to suttee among Germans.[123] Whatever the meaning of this fragile evidence, it still contains no hint of any Germanic taboo on suicide, as such.

One more form of Germanic suicide, with quasi-institutional status, may have been that of defeated soldiers. If we include the suicides of warriors publicly disgraced by their own armies, the military category is in fact the biggest of all kinds mentioned in the sources. Mere quantity may fail to prove it was an established institution, but some of that failure is made up for by Plutarch's description of the suicide of the Cimbri in 101 bc (that is, nearly two centuries before he wrote). After being defeated by the Roman general Marius, Plutarch writes, the Cimbri women hanged themselves. The men meanwhile attached themselves to oxen, which were then goaded in such a way as to drag the men to death.[124] The whole episode has the air of a religious practice. It has been interpreted in that light by most scholars, if without concord on its exact meaning.

Doubts and queries: how old are post-medieval superstitions?

There is much to be said, then, for the conclusion that the early Germanic peoples as a whole tolerated, even respected, suicide, and were accordingly free of any fear of suicide phobia. There is much to be said for it, and much *has* been said, with a certain unanimity on this one issue, by specialists with close knowledge of the sources in early Germanic languages. We have nevertheless travelled far enough, in the study of medieval suicide, to be ready to put innocent questions even to such a consensus of specialists. One or two questions may be helpful here; and the first concerns superstition.

[123] St Boniface, *Epistola* 73; ed. M. Tangl, *Mon. Germ. Hist., Epist. sel.*, vol. 1 (Berlin, 1916), p. 150. 25–7: 'et laudabilis mulier inter illos esse judicatur, quia [quae] propria manu sibi mortem intulerit et in una strue pariter ardeat cum viro suo.' The passage from al-Masudi is in chapter 17 of Barbier de Meynard's French translation, Maçoudi, *Les prairies d'or*, Texte et traduction par C. Barbier de Meynard et Pavet de Courteille. Société asiatique, Collection d'ouvrages orientaux, 9 vols (Paris, 1861–77), vol. 2 (1873), pp. 9–10: 'Les paiens domiciliés dans cette contrée [the Khazar dominion on the Lower Volga] sont de plusieurs races, parmi lesquelles il y a des Esclavons et des Russes, qui sont relégués en des deux quartiers de la ville; ils brulent leur morts, en mettant sur le même bücher leurs bêtes de somme, leurs armes et leurs parures. / Quand un homme vient à mourir, sa femme est brulée vive avec lui; mais si c'est la femme qui meurt la première, le mari ne subit pas le même sort. Lorsque quelqu'un meurt célibataire, on lui donne une épouse après son décès. Les femmes désirent ardemment être brulées avec leurs maris pour entrer à leur suite dans le paradis. Cette coutume, comme nous l'avons déjà fait remarquer, a lieu dans l'Inde, ou, toute fois, la femme n'est brulée avec son mari qu'autant qu'elle y consent elle-même.'

[124] Plutarch, *Marius*, §27; cf. Tacitus, *Germania*, ch. 6. Cf. Hirzel, 'Der Selbstmord', pt 1, pp. 79–80, n. 2.

Let us turn back to Baechtold-Stäubli's ten-volume *Dictionary of Germanic Superstition*,[125] called in earlier in this volume to throw light on burial customs and associated beliefs; and let us look, in particular, at the taboos and rituals Baechtold-Stäubli gives under his title 'Suicide'.[126] They are numerous, and include many of those seen here from the European Middle Ages and antiquity, and indeed from further afield. Examples include the extraction of the corpse from a house other than by the doorway; unusual disposal of the corpse, sometimes by a river; burial on the seashore, on boundaries, or at crossroads, and/or after sundown. They also include dangerous ghosts of suicides, and storms. These customs are mostly recorded, in Baechtold-Stäubli's sources, from centuries after the Renaissance, or at least from sources not certainly assignable to before then. But it has to be asked when the customs started, and where they came from. Practices for which no prior evidence exists may (again in principle) have appeared overnight, as I suggested some did in response to the intensification of suicide, in both fact and consciousness, in the sixteenth century.[127] That question is a delicate one; and it will be recalled that, in looking (for instance) at the question whether staking of suicides' corpses could be regarded as a medieval practice, we recognized the danger of reading back the origin of post-medieval customs earlier than the extant evidence for them.[128] The danger is there. We must not jump to any conclusion that Baechtold-Stäubli's customs are necessarily age-old. What is at issue, on the other hand, is the obscure bottom layer of social behaviour, the layer whose peculiarities most easily could have escaped record. So we must not presume the opposite either, but recognize that some of the customs could be old, some new, or rather (almost certainly) new adaptations of old elements, like—to return to the example just mentioned, of the staking of suicides—the attachment to suicides of the age-old practice of staking corpses.

Now by lucky chance, it is possible to demonstrate beyond reasonable doubt that one of Baechtold-Stäubli's modern suicide beliefs actually *was* age-old, or at least many centuries older than his earliest account; and it can be demonstrated in a way consistent with others' having escaped, the beliefs having changed little over countless generations. The evidence would take time to set out in full, and I shall postpone doing so until the end of the following volume, *The Mapping of Mental Desolation*, where this belief will be examined from the point of view of what it reveals about the psychology of suicide. For the present purpose the essentials are nevertheless simple. In post-

[125] H. Baechtold-Stäubli, *Handwörterbuch des deutschen Aberglaubens*. 10 vols (Berlin, 1927–42). Cf. above, p. 20, and index.

[126] Vol. 7 (1935–6), cols 1627–33. The entry was written by Paul Geiger.

[127] *The Violent against Themselves*, 368–78.

[128] Above, pp. 13–15.

medieval times, and into the twentieth century, a story has been told in many parts of northern Europe, mostly but not exclusively in places with Celtic associations, of a man drawn to suicide by water as if by an evil water-spirit. The man emerges from nowhere after a mysterious verbal formula has been heard in the air, and throws himself into a river or the sea. Numerous reports of this story survive from the nineteenth century, some from the eighteenth, and even a few from the seventeenth.[129] To judge by the distribution of this evidence we might imagine it began then. But a careful exploration of medieval documents—more careful than has been easily possible to modern folklorists—shows it was there in the late eleventh century. There is also evidence of it from the thirteenth. The story does not show suicide carried a moral curse. But the man is portrayed as anxious and agitated, and it is far from a happy tale. What is material is that the story is distinctly non-Christian in both its message and its trappings, and hence, certainly, pre-Christian. Yet not the faintest hint of it appears in any of the copious chronicle or epic evidence about the pre-Christian Germans.

Bias in coverage

Negative conclusions from that evidence seem therefore precarious, in respect of beliefs held on the lower elusive levels of the popular consciousness. So even the scholarly consensus of the expert Germanists cannot eliminate all doubt; and if doubt does survive, it can feed on two further considerations. Both relate to possible bias in the sources' coverage.

First, the great majority of Germanic suicides mentioned in epic or narrative history are military. One kind of exception has been considered in the Old Age Pension suicide. Apart from those, *all* the suicides mentioned by the Germanists from historical (as distinct from literary) sources are military. That is, they are either on the lines of the deaths of the Cimbri, referred to just now—whose aggressive vagrancy made them an exception anyway—or of warriors disgraced.[130] We do, it is true, hear of other occasions of suicide: loss of a bet (one),[131] loss of a judicial case (one),[132] and bereavement of a relation or close friend (three or four cases).[133] But these exceptions are almost exclu-

[129] Stith Thompson, *A Motif-Index of Folk Tales* (Bloomington, Ind., 1975), vol. 2, p. 169, (D 311.11.1); vol. 5, p. 41 (M 219.2.3; N 101). Cf. Peter Damian, *De variis miraculis*, ch. 8; *Pat. lat.*, 145, 582; Gervase of Tilbury, *Otia imperialia*, ch. 85, in G. W. Leibnitz, ed., *Scriptores rerum Brunsvicarum*, 1 (Hanover, 1707), 988.

[130] Trathnigg, 'Über Selbstmord', 100–1; Engfield, 'Der Selbstmord', 5–6.

[131] Örn, in *Landnámabók*; Engfield, 'Der Selbstmord', 6.

[132] Kolbein in *Svarfdaela Saga*; Engfield, 'Der Selbstmord', 7.

[133] Egil (an attempt); Haki; Njal (his last words 'suicidal' in some measure); Eyund in *Vatnsdaela Saga*; all in Engfield, 'Der Selbstmord', 7–8. The exception is the public self-hanging of Hadingus in Saxo Grammaticus' *Gesta Danorum* (bk 1, ch. 27) if Saxo is to be treated as a

sively in saga. Saga was not only recorded late, but followed literary rules distinct from strict history. Elsewhere it is military suicide we are dealing with, all but exclusively. But our study of suicide in general has suggested that military suicide has its own historical profile. It is untypical. To judge from available written sources, it has a claim to have killed more individuals than any other kind of suicide in the two most suicidal centuries of Roman history.[134] Military suicide is the most prominent exception to the general disapproval expressed for suicide in Jewish antiquity.[135] In the late nineteenth century, Durkheim would place the suicide exposure of the military in a category of its own, at the top.[136] If the medieval nobility seem to have under-supplied suicides in this category, it was for reasons peculiar to their culture and to their forms of warfare.[137] In general, in our history, the military have proved an exception, and while that fact does not explain away the approved suicides in early Germanic sources, it weakens their representative significance.

It weakens it all the more in the light of a second consideration. Whatever friends 'racism' may have, history cannot be counted one of them. The moment the so-called Germanic migrants settled they stopped being Germanic, and began to mix with populations only too pleased to confuse future historians,[138] by intermarrying and giving their children the social advantage of Germanic names like 'Arnulf' (which long concealed the Gallic ancestry of the Carolingians) or 'Sigurd' or 'Thorkell' (which did the same for the substantial Irish descent of eleventh-century Iceland). In so far as a Germanic ethnic layer remained, furthermore, however pure or mixed in descent, it remained as the upper layer of a population largely untraceable in origins. The main common bond of the population, a bond tending to form and cement others, was residence in a single geographical environment. In that environment, given the stability of a mainly agricultural economy, death customs and beliefs were able to survive, propagate, and banish to a legendary past any usages—like the killing or ritual suicide of the old and

historical rather than literary source; in J. Olrik and H. Raeder, eds, *Saxonis Gesta Danorum*, vol. 1: Text (Copenhagen, 1931), 35. 2–5: 'Quo cognito Hadingus parem veneratori gratiam relaturus extinctoque superesse non passus suspendio se vulgo inspectante consumpsit.' Cf. Valerius Maximus, *Facta et dicta*, bk 5, ch. 8, §3.

[134] See Grisé, *Le suicide*, 37–50 (tables covering 100 bc to ad 100), 60–3; Van Hooff, *From Autothanasia to Suicide*, 109–12, 126–7, and 304 ('Soldier'). Van Hooff's tables on pp. 234–8 are suggestive but do not isolate the military.

[135] Above, pp. 90–8, 518–23. [136] *Suicide*, 228–39.

[137] *The Violent against Themselves*, 61–70.

[138] My confidence in making this generalization comes most immediately from the reading of E. Ewig, 'Volkstum und Volksbewusstsein im Frankenreich des 7ten Jahrhunderts', in *Caratteri del secolo VII in Occidente*. Settimane di studio del centro italiano di studi sull'alto medioevo, 5 (Spoleto, 1958), 587–648, summarized, 644–8; and of R. Wenskus, *Stammesbildung und Verfassung* (Cologne, 1961), 512–41 (esp. 537–41 on the mixing process).

sick—which may have been native to earlier, migrant peoples chronically on the breadline.

As a sounding of dark-age popular beliefs all this must remain largely theory. But in the presence of otherwise inexplicable data, and the demonstrable inaccessibility of areas where explanations could be found, historians must not, I submit, altogether abandon theory. This one can at least claim a certain internal cohesion; and where it does touch known fact, as in respect of ethnic mixture and settlement, conversion, and harmony with better-documented analogues, it fits.

The theory still leaves one important question open. It is the question what part, if any, in the propagation of suicide taboos in dark-age Europe, should be assigned specifically to Christianity—on whichever of its numerous levels that term is to be understood.[139] Christianity could hardly, for example, have encouraged that story of the water-spirit, fatalism at its core, and hence anathema to the most elementary theologian. And what, exactly, was the contribution of Christian missionaries to the unusual burial practices recorded for suicides? Without going over again all the notions rehearsed in Chapter 1, let me repeat an example which may give edge to the question, because it was chronologically as close to the Christian conversion of Norway as the Braga canon of 561 was to that of the Visigoths and Suevi. It is in the *Gulathing Law*, a Norwegian king's law code from the eleventh century. It says:

> Every man when he is dead should be brought to the church and buried in consecrated ground. Except for wrongdoers, traitors, perjurors, thieves and those men who take their own lives. Those whom I have named should be taken out to the country and buried on the edge of the tideline where the sea and the green come together.[140]

The question, then, narrows its focus: how did Germanic Scandinavia, with all those unreproved suicides still to be celebrated in its sagas, come thus, within decades of its conversion and hence of its kings' first access to writing, to include suicides among cemetery outlaws? Were the suicides a new arrival among the age-old types of criminal that make up the list, or were they themselves among those types? If the above theoretical construction is correct the prohibition *may* have been old, despite all the evidence of saga. That is not at all to say Christianity played no part. It is only that there may, even in areas

[139] A parenthesis explained, implicitly, in so far as it may need explaining, by the rich evidence and insights provided by R. Fletcher, *The Conversion of Europe* (London, 1997).

[140] *Gulathing Law*, ch. 23; trans. L. M. Larson, *The Earliest Norwegian Laws* (New York, 1935), 51. The background is described by K. von Amira, *Germanisches Recht*, 4th edn, vol. 1 (Berlin, 1960), 110–12. As 'missionary' legislation on the subject this should be compared with Nicholas I's letter concerning the Bulgars (above, pp. 267–8), and the Silesian canonists' advice of 1385 (above, pp. 465–6), though neither is directly about Germans.

where missionary records are least promising on the subject, have been taboos already latent in the world Christianity came to.

Light is thrown on this possibility by the example of the last of our five fields of investigation, the one whose connection with medieval Europe I promised would be most historical (as distinct from comparative): Egypt.

Egypt

The medieval legal authority most often invoked to prohibit the normal offerings and prayers for suicides was the Braga canon of 561. It referred to an existing law of which no written record survives, probably customary. There is not much to be known about antecedents of the law in the Iberian peninsular, but the passing of the canon required an initiative, and its source may be less opaque: it came almost certainly from the bishop of Braga who organized and led the council. From soon after his death he was remembered as St Martin of Braga.

St Martin of Braga

The following is what Gregory of Tours wrote about St Martin in or just after the year 580:

> At this time died the blessed Martin, bishop of Galicia, greatly lamented by his people. He was a native of Pannonia [roughly what is now south-western Hungary]. From whence he set forth for the East to visit holy places, and became so well versed in letters that he was held second to none among the men of his day. He then went into Galicia [which then included Braga], and at the time when relics of the blessed Martin [of Tours, died 397] were brought thither, Martin was consecrated bishop. In this dignity he passed some thirty years, and departed to the Lord full of good works.[141]

The good works, by the time Gregory of Tours wrote, had largely consisted in the reorganization of the Catholic Church among the Suevi, an eastern Germanic people, neighbours to the Visigoths and related to the Vandals, who had settled in Galicia in the fifth century. Galicia, the 'Wales' of Spain, then stretched south almost to Coimbra, and Braga was in the middle of it. The Suevic kings had been converted from Arian Christianity to Catholic, following the example of their Visigothic neighbours, about the year of the first

[141] *Hist. Francorum*, bk 5, ch. 37; ed. W. Arndt and D. Krusch, *Mon. Germ. Hist., Script. rerum merovingicarum*, vol. 1, pt 1 (Hanover, 1884), 229. 21–7. This and other sources for the life of St Martin are printed in C. W. Barlow, ed., *Martini episcopi Bracarensis Opera Omnia*. Publications of the American Academy in Rome (New Haven, Conn., 1950), 288–304. Cf. R. Collins, *Early Medieval Spain* (London, 1983), esp. 82–4.

Council of Braga. Whether Martin had triggered this conversion is doubtful, but from about 566, when he founded a major monastery just north of the city, Martin took the lead in organizing the Church that resulted, aiming to establish a qualified priesthood to preach orthodox Christianity. He did not succeed far in his lifetime. Few dark-age bishops in his position did. But although Martin's Church, with the Suevic kingdom that supported it, suffered its own barbarian invasion in 576 from its Visigothic neighbours in one of their lapses into Arianism, the canons of Martin's councils passed into the tradition of later Spanish and Gallic Church legislation. The suicide canon came with the rest.

It will be recalled that the Braga canon ends: 'for many have done this wrongfully through ignorance'.[142] I commented on that phrase earlier in respect of the priests it was meant for. A second comment is in place now in respect of its author. The style is diplomatic rather than confrontational, and this quality was typical of all St Martin did, and helps betray his hand. It does not, however, discredit the historical lesson the canon has taught. The council saw itself as merely strengthening a rule some priests were already observing: the law-breakers were only *multi* not *omnes*, and the *multi* were 'ignorant', therefore ignorant of something, namely a rule against normal burial for suicides. We have speculated, on the whole unfavourably though not conclusively so, on the hypothesis that the rule was known to the Germanic newcomers. But they, anyway, cannot have formed more than 2 or 3 per cent of the Iberian populations they ruled over, and the Iberian-Galician populations had their own old customs, some very old. If the non-burial of suicides was one, that would explain how the idea of it got into the heads of those two classical Iberians, Seneca Rhetor and Quintilian. So we know that the ban of 561 was not brand-new. Yet there must have been *something* new about it, or we would never have heard of it. A canon was written down and enforced, and became the model for later canon law. That represents an initiative. Since the initiative was almost certainly Martin's, its origins are most fruitfully to be sought in Martin's past.

And first in Martin's reading, which we know was substantial. He was 'in letters, second to none', according to Gregory of Tours, and the north Italian Christian poet Venantius Fortunatus [† *c.*610], in a flattering poetic address to Martin, refers to a whole range of classical and patristic authors as common ground between himself and the saintly bishop. Internal evidence from the latter's surviving writings confirms these impressions.[143] Whether they reveal

[142] 'Multi enim sibi hoc per ignorantiam usurpaverunt'; above, p. 183.

[143] A. Ferreiro, 'The missionary labors of St Martin of Braga in sixth-century Galicia', *Studia Monastica*, 23 (1981), 11–26, on p. 17 (though with impossible dates for Venantius Fortunatus).

his inspiration for the suicide canon is not quite so clear. He may, possibly, have read St Augustine's condemnation of suicide in *The City of God*. Martin's only surviving sermon shows strong influence from a *sermon* by Augustine, and it is possible, though unprovable, that he had read the longer work;[144] but Martin had equally—and certainly—read Seneca, the suicide-minded Stoic.[145] So reading, alone, can hardly have been decisive in determining his initiative; not least because those suicide chapters in *The City of God*, and the Braga canon, are anyway talking about different things, in different ways, and to different kinds of people.

A search for the source must therefore go further, into Martin's life before he came to Spain as a foreigner from far away. From where? Questions about foreign influence in medieval Spain always have to take account of Spain's two 'faces', one looking towards Latin Europe across the Pyrenees, the other towards the southern Mediterranean shore and thence to the Levant and Byzantium. The Arian Germans had entered Spain from the north, and partly for that reason, Spain's Catholic bishops sought ties in the other direction. Their wishes were reciprocated. From 533 to 565 the Emperor Justinian, in Constantinople, devoted most of his efforts to the reincorporation of all Rome's old western provinces into the Empire. Byzantine troops accordingly reached southern Spain in 561 and, though precariously and temporarily, turned the Mediterranean back into a Roman lake, a Catholic Christian *mare nostrum*.[146]

Of many careers that reflect this short-lived reunification of the Mediterranean world, few do so better than Martin's.[147] Born on the Danube, Martin had at an early age 'set forth for the East to visit holy places'. So Gregory of Tours says. The vagueness of Gregory's reference betrays that the Frankish writer wrote about the Mediterranean from Spain's northern face and in a certain isolation, conscious of the novelty any eastern missionary was likely to bring to the western barbarians. We do not know, in consequence, just which 'holy places' Martin had visited. But we can guess. An account survives from just after his time of a journey made by pilgrims from Piacenza to the eastern Mediterranean, *c.*570, and it includes an itinerary there is no reason to believe unusual.[148] Besides obvious biblical holy places in Palestine it mentions places associated with early monasticism in Syria and Egypt, naming

[144] A. Ferreiro, 'St. Martin of Braga's policy towards heretics and pagan practices', *American Benedictine Review*, 34 (1983), 372–95, on p. 379.

[145] Ferreiro, 'Heretics', 381, 390.

[146] J. Herrin, *The Formation of Christendom* (Oxford, 1987), 220–3.

[147] A. Ferreiro, 'The westward journey of St. Martin of Braga', *Studia monastica*, 22 (1980), 243–52.

[148] It is précised in H. Leclercq, 'Pèlerinages aux lieux saints', in F. Cabrol and H. Leclercq, *Dictionnaire d'archéologie chrétienne et de liturgie*, vol. 14 (Paris, 1939), cols 137–46.

Alexandria, Cairo (then called 'Babylon'), and Memphis. If the earlier itinerary of the famous pilgrim Egeria, in the late fourth century, is anything to go by—and we happen to know it was vividly remembered in Galicia in the seventh—Middle Egypt could well have been included; and even if not, monks from there could be found in the multinational crowds of pilgrims attending annual celebrations in the holy places of Jerusalem, where a western pilgrim could well have met them.[149] When Martin 'set forth for the East to visit holy places', therefore, it is not just possible, but likely, that he came in contact with monks from the middle Nile. There, a memory was still fresh which may hold something to the present purpose.

Pachomius

In the mid-sixth century one of the holiest places in the whole Christian East was Tabennis, in Egypt, 300 miles up the Nile from Memphis. It was here, if anywhere, that Christian monasticism had been born.[150] Around 320, in the Thebaid—the partly desert area near Luxor and the ancient Thebes—St Pachomius had initiated a large and successful coenobitic community (coenobitic monasticism laid less emphasis on the *eremos* [desert] of the hermits, and more on the ideal of the *coenobium* [*koinos bios*, common life]). The emergence of the coenobitic ideal at this place and time were not an accident. In reforming the way Egypt was governed, the Emperor Diocletian (ad 284–305) had privatized much of Egyptian landholding, and the farming organization which had emerged broadly resembled big peasant cooperatives. One of the relatively few pre-modern monastic founders *not* to be of noble birth, Pachomius was native to this milieu, his monastic ideal being from one angle an apotheosis of social structures familiar to him since youth. Pachomius' monks did not so much flee the world, in the manner of hermits,

[149] *Itinerarium Egeriae*, ch. 7, §1; ch. 9, §1; ed. A. Franchescini and R. Weber, in *Corpus Christ., Series latina* (Turnhout, 1965), pp. 46 and 49; cf. the letter of the Galician Valerius to the monks of Vierzo (seventh century), §1 (c) in Z. Garcia, 'La lettre de Valérius aux moines du Vierzo sur la bienheurese Aetheria', *Analecta Bollandiana*, 29 (1910), 377–99, at p. 394.16–18: 'tandem partes Orientis ingressa sanctorum summo cum desiderio Thebeorum visitans monachorum gloriosissima congregationum caenobia, similiter et sancta anachoretarum ergastula'. Both texts are translated in J. Wilkinson *Egeria's Pilgrimage to the Holy Land* (Jerusalem and Warminister, 1981), cf. 100, 103, 175. Monks from the Thebaid also came to celebrations of the Encaenia in Jerusalem where they would meet pilgrims. Egeria, ch. 49, §1 [ed. Franchescini, p. 90; tr. Wilkinson, 146].

[150] For the following: P. Rousseau, *Pachomius: The Making of a Community in Fourth-Century Egypt.* The Transformation of the Classical Heritage, ed. P. Brown, vol. 6 (Berkeley, Calif., 1985); and P. Brown, *The Making of Late Antiquity* (Cambridge, Mass., 1978), 81–101. On the historical impact of Pachomian monasticism Brown is prepared to say [p. 80] 'In the making of Late Antiquity the monks of Egypt played a role more enduring than that of Constantine.'

as take a slice of it—*their* world—and school it into the explicit acceptance of Christian demands.

This social background may help to account for the place Pachomian monasticism has in a history of the European law on suicide. For it is within Pachomius' circle, within some twenty years either side of the year 330, that we first hear of a Christian prohibition on a suicide's normal burial. I shall argue that its appearance there and then was not wholly accidental. Accounts written within two generations of Pachomius' death (in 346) tell of two relevant incidents, both with a fair degree of verisimilitude. The first comes in the so-called *Lausiac History*, written around 419 by the historian monk Palladius (and dedicated to a certain Lausus). Palladius sets down in detail the memories and traditions of Pachomius and his contemporaries, memories still fresh in Tabennis when Palladius wrote.[151] The suicide incident in question also happens to survive outside Palladius in one of the half-dozen *Lives* of Pachomius.[152] But this version was almost certainly taken from the *Lausiac History* rather than the other way round, so Palladius is best made our first witness. The story comes in his chapter 33. After telling the reader a lot about the male monks at Tabennis Palladius turns to their less numerous female counterparts. These were a group of some 400 nuns, living on the other side of the Nile from the men, following the same rule and enjoying a distant, purely practical relationship, strictly limited, with the male community. The practicalities included burial. The nuns did not possess their own cemetery, and when a nun died the other sisters would prepare her body for burial and put it on the bank on their side of the river, where a party of male monks would come over in a boat to collect the body and bury it, with due ceremony, in the monastic cemetery on their side of the river. Apart from these burial provisions, a standing arrangement allowed a priest and a deacon to sail across once a week to serve the nuns in necessary priestly functions. Otherwise the nuns had no contact with men.

Or not officially. One day, by chance, Palladius relates, a jobbing tailor—nothing whatever to do with the monasteries—came walking through the semi-desert purlieus of Tabennis in search of work. (I tell the story as Palladius does and leave the reader to speculate how he could have learned all its details, and whether the whole narrative might bear other interpretations.) Being on the nuns' side of the river, the tailor chanced to meet one of the younger residents, still in her novitiate. Having no idea that the young woman

[151] Ed. C. Butler, 2 vols (Cambridge, 1898 and 1904). I have also used the bilingual—Greek and Italian—edition of G. J. M. Bartelink, *Palladio: la storia Lausiaca* (Milan, 1974). The story is in ch. 33; ed. Butler, vol. 2, 1106A, p. 97; ed. Bartelink, 160–3.

[152] F. Halkin, ed., *Sancti Pachomii Vitae Graecae*. Subsidia Hagiographica, 19 (Brussels, 1932). The story is in *Vita tertia*, ch. 44. For the status and character of this *Life* see pp. 62*–72*.

lived under a rule which excluded talking to strange men, he asked in all innocence if her community needed any tailoring. 'We have our own tailors, thank you,' she replied. That was an end of the encounter; or would have been, except that one of the nun's fellow-novices had seen the brief meeting and remembered it. When, soon afterwards, the second novice and the first quarrelled about something else, the second turned the incident into an accusation, alleging the first nun had had a wrongful relationship with a man. The *Lausiac History* continues:

> On a suggestion of the Devil, driven by great perversity and her seething rage, the second novice brought a false charge against the first in front of the community. A handful of the other nuns associated themselves with this wickedness. To be accused of something which had never entered her head grieved the first nun greatly, and, unable to bear it, she went off secretly and threw herself in the river. Thus she died. Upon learning this, the nun who had brought the slander, conscious that it was through malice that she had done so and that she was therefore responsible for this abomination, went off, she, too, unable to bear what had occurred, and hanged herself.[153]

This kind of story will not be unfamiliar to readers of medieval stories of suicide. But it is the sequel that now calls for attention. The *Lausiac History* goes on:

> When the priest arrived the sisters told him what had happened. He ordered that for neither of the two was an offering to be made.[154]

As for the accomplices in the affair—the nuns who had made no effort to make peace between their quarrelling sisters and had chosen to treat the slander as established fact—they were to be excommunicated for seven years, staying in the community but under a special ostracism.

The phrase used for the nuns' interview with the priest, *elthonti tō presbyterō* ['to the priest who came'] suggests he had crossed the river specifically to deal with the case. The anonymous *Life* version adds a detail here by identifying 'the priest' who gave the orders, saying he was 'the abbot' (literally 'the great man': *ho megas*). It also omits to say he 'came',[155] which implies the case was doubtful enough to be taken over the Nile to Pachomius for decision. Since this *Life* survives only in an eleventh-century manuscript and this particular story comes in a part palpably a compilation,[156] that otherwise significant detail may have imperfect authority, but is still worth remembering. As to what the decision was, both versions use virtually the same words to report it:

[153] *Lausiac History*, ch. 33; ed. Butler, vol. 2, p. 97.3–20; ed. Bartelink, 160–3.

[154] Ibid., ed. Butler, lines 16–18 [ed. Bartelink, p. 62. 27–9]: '*ἐλθόντι οὖν τῷ πρεσβυτέρῳ ἀνήγγειλαν τὸ πρᾶγμα αἱ λοιπαὶ ἀδελφαὶ· καὶ ἐκέλευσε τούτων μὲν μηδὲ μιᾶς προσφορὰν ἐπιτελεσθῆναι.*'

[155] Ed. Halkin, 279.26: '*Ανήγγειλαν δε ταῦτα τῷ μεγάλῳ αἱ λοιπαὶ παρθένοι.*'

[156] Halkin, 65*.

ekeleuse toutōn men mēde mias [Vita: mēdemias] prosphoran epitelesthēnai ('he ordered that for neither of the two was an offering to be performed').[157] Though briefer and with different emphasis, the words are reminiscent of the phrase used two centuries later by the Braga canon: *nulla illis in oblatione commemoratio fiat.*[158]

This is not the only instance in Pachomian biography of an ill-doer's being denied burial rites:[159] the matter was clearly of importance both to the Pachomian ideal and to the writers who sought to convey it. After what has been learned in the four previous chapters, one final feature of this incident also deserves notice: both narrators make it clear that the method of suicide was of no account. They record the two suicides, by different methods, factually: *ebalen heautēn eis ton potamon . . . kai eteleutēusen* [*Vita*: *outōs*]: 'she threw herself in the river . . . and died [thus]';[160] and *apēngxato* [*Vita*: *hēautēn*]: 'she hanged [herself]'.[161] It was the deliberate self-killing, not any method, that drew punishment.

The second story comes in a sermon by John Cassian. Cassian had lived with the Pachomian monks a generation or two after Pachomius, and left around the year 415 to found a similar community in Marseilles. Although Cassian had grown up in a Greek-speaking environment, he left sermons (or *Conlationes*) in Latin, composed for his western disciples, and they often include reminiscences of what he had learned among the monks of Egypt—making them another significant conduit for Pachomian influence. One of Cassian's reminiscences concerns a suicide.[162] This time the suicide was an aged monk by the name of Hero, who had lived an exemplary monastic life for fifty years but was tricked by the Devil into a what Cassian calls a *gravissimus lapsus*. What was the *lapsus*? Hero had vowed himself to a stricter fast than was required by the monastic rule and avoided common celebrations lest he be tempted to eat 'even a little vegetable'. On a certain solemnity, while other monks were in church, the Devil found his opportunity to catch Hero. He sent a demonic messenger to approach the old monk. The account continues:

[157] As in n. 152. Cf. *Vita tertia*, ed. Halkin, 279.26. [158] See above, p. 183, n. 59.

[159] In *De sanctis Pachomio et Theodoro Paralipomena*, §5; ed. Halkin, *Vitae*, 128, the abbot interrupts the funeral procession of a monk whose own children and other relations were following his bier, and despite the relations' clamorous opposition, insists the delinquent monk be buried without psalms and other due rites. Cf. *Vita prima*, §103 [ibid., 68] for another such refusal.

[160] Ed. Butler, lines 12–13 [ed. Bartelink, lines 23–4]: '*μὴ ἐνεγκοῦσα ἔβαλεν ἑαυτὴν εἰς τὸν ποταμον λάθρᾳ καὶ ἐτελεύτησεν.*' *Vita tertia*, ed. Halkin, 279.22, adds *οὕτως*.

[161] Ed. Butler, line 15 [Bartelink, line 26]: '*λαβοῦσα ἀπήγξατο.*' *Vita tertia*, ed., Halkin, 279.25, inserts '*ἑαυτὴν*'. (Since *ἀπήγξατο* is in the Middle Voice it has a reflexive sense even without that insertion.)

[162] John Cassian, *Conlationes*, bk 2, 'De discretione', ch 5; ed. M. Petschenig, *Corp. Script. Eccles. Lat.*, 13 (Vienna, 1886), 45.3–13.

Deluded by his own presumption, Hero received Satan's angel with the deep veneration appropriate to an angel of light. In prompt obedience to his visitor's instructions, he threw himself down a well, so deep that, looking down, one could not see the bottom. Hero did this in perfect trust in the satanic angel's assurance that a man of Hero's past virtues and labours could not possibly come to harm by doing so. On the aforesaid night Hero accordingly threw himself into the well so that, by escaping unhurt, he might verify the immunity which he thus believed his past merits had earned for him.[163]

Hero was rescued 'with enormous labour' by the other monks (who thus gained their chance of hearing of Hero's motive, or what he said was his motive, in jumping down the well).

For Hero was in fact 'almost dead' when rescued and actually died three days later. Cassian goes on:

what is worse, [he died] in the very face of a realization that it was this experiment that had led to his death, yet he stuck firm in his demonic delusion.[164]

Hero's priest and abbot, Paphnutius—a saintly colleague of Pachomius and often mentioned in this group of sources—declared that Hero was *biothanatos*. Now we met that word earlier, as a Greek neologism carried over into Latin, based originally on *biaiothanatos* ('violently dying'), and constituting a near synonym for 'suicide'.[165] The presence of the word in Cassian's sermon confirms the lesson learned in Chapter 14, that in the fourth and fifth centuries the word could be used without fear of its being misunderstood, and as a pejorative. For in the story, Paphnutius says that Hero *qua biothanatos*, was 'unworthy of the memorial and offerings of the dead [*memoria et oblatione pausantium*]',[166] a phrase again close to terminology soon to be used in western canons.

In the event, Hero was buried normally, the reason being that:

in consideration of the merits he had acquired by long austerities, and in view of the many years he had endured in the desert, certain persons were moved by compassion for Hero's death, and with expressions of the utmost humility and pity for the dead man, managed, with difficulty, to win [the required concession] from Abbot Paphnutius.[167]

What the account fails to clarify beyond dispute is whether Hero's intention was strictly suicidal in a modern sense. The demon's false promise might be read as meaning Hero could have thrown himself down the well without physical harm (on the analogy of the Devil's temptation of Christ in Luke 4: 9–11). It is far from certain that the question would have presented itself to

[163] Ibid. [164] Ibid., p. 45.15–18. [165] Above, pp. 473–6.
[166] Cassian, *Conlationes*; ed. Petschenig, 45.22–3. [167] Ibid., lines 18–21.

contemporaries in quite this way, which may account for the ambiguity. On the other hand, the ambiguity may have been intentional, and a kind of euphemism. We can only say that the description *seems* to imply that the monks thought Hero a suicide, which is almost certainly what *biothanatos* meant, at least translated into modern conceptual language. What is both striking and certain, and anticipates the law's western future, is that, granted that Hero was a *biothanatos* (and on any reckoning in a bad state of mind) the religious community was divided, between mercy and justice, on the question whether to give him religious rites.

The background of Pachomian monasticism

All this happened in the fourth century, at Tabennis, 300 miles south of modern Cairo. To assess its place in later European history, we should look more closely at what can be called the social geometry of the two incidents. In the first it is a priest, perhaps Pachomius himself, who says the suicides cannot be buried, as if the nuns or persons of lesser rank did not already know the rule or might ignore it. In the second, Pachomius' fellow-abbot Paphnutius puts up a long resistance to a petition from Hero's fellow-monks to lift his ban on funeral rites. In both episodes, that is to say, the ban issues from a charismatic and apparently autonomous authority, while some of the broader monastic community lean in the other direction. That geometry can be compared with analogues found among medieval enforcers and benders of the law (in Chapter 14). In the early Middle Ages we found several authorities, more or less charismatic, keen to initiate the ban: Martin of Braga (if it is right to see his hand in the Braga canon); the Carolingian rigorists who drove out the Theodorean penitential tradition of allowing prayer for suicides; and Pope Nicholas I. On the eastern fringe of Latin Christendom, in the fourteenth century, the same pattern would be visible in Silesia. We also found the reverse: how a learned bishop, when consulted—like Philip Repingdon of Lincoln, or Innocent III—intervenes only to limit the effect of the law to its essentials; and how monasteries in the central and late Middle Ages showed, in general, a discreet readiness—always discreet—to flex the rigour of the law in favour of giving a suicide proper burial and prayer. That is anticipated in the Pachomian stories, the main difference being that here, in the case of Paphnutius, it was an abbot who was the rigorist.

I said earlier it was not pure chance that Pachomius should be the first known Christian rigorist in the non-burial of suicides, because reasons for it can be found in the character of his movement; and three reasons in particular. The Pachomian emphasis on community was mentioned earlier. It was an emphasis contrasted with that of the hermits, and drawing from contempo-

rary social conditions. More than once in the medieval chapters we have noticed that, whatever other moral objections suicide might attract, special force attached to those resting on the demands of community, and not only in the practical sense that it was often a village or district which insisted on disgracing the suicide. For it was also true in theory, as in Aristotle himself—in both his classical and medieval incarnations—and as in those authorities in canon law which distinguished public and private prayer. Private prayer they allowed: as if it was the community, author and beneficiary of public prayer, that needed protection after a suicide. Far away in time and place though Pachomian monasticism was, its collocation of a suicide non-burial with a powerful sense of community harmonizes with these medieval European features.

A second suggestion, not unrelated to that, touches the relation of Pachomius to neighbouring ascetic movements. Their heroic austerities, at a time when the relevant Christian orthodoxies were a long way from having settled into a mould, brought devotees close to suicide of a kind. This is not the place to investigate Gnosticism, or to examine its relationship with religious currents from further east, the *orientale lumen* which Franz Cumont discerned in ancient Near-Eastern religion. But we do have to be aware of this element in early Christianity and in its rivals. The Sanskrit authorities told us that suicide of certain kinds could be a supreme ascetic ideal. Nor was that idea far from currents still alive in Egypt in Pachomius' time. In the late third century, we heard Porphyry take the trouble to impugn this very ideal; no, he said, committing suicide when you believe yourself to be at the apex of spiritual purification is *not* a good act, since it is an act of passion and will obstruct the soul's passage to its true home in the world of the spirit. Porphyry there impugned ascetic suicide in the language of a non-Christian Neoplatonist philosopher. Pachomius, a generation later and in a world beginning to try to put Christianity into practice, did the same as an abbot, with law, in the only way law could express the same prohibition. The ban on burial and prayers declared unequivocally, even to the least philosophical of onlookers: 'no, deliberately to end one's own biological existence is *not* an ideal, it is *bad*.'

Motifs from the lives of others of the Egyptian desert Fathers illustrate this ambivalence. We cannot here examine the theme *in extenso*, but one or two examples, of the several which entered western tradition in Latin versions, will serve for many. In one account, destined to enter western libraries in *The Lives of the Fathers*, the Devil appears in angelic disguise to try to persuade a monk to kill himself as a path to salvation—and nearly succeeds. That may remind us of that equally diabolic Pseudo-St James in the eleventh century—in a part of France soon to breed the Cathars with their *endura*—who told the

pilgrim to Santiago to abandon other means of salvation for the simple expedient of suicide. Stories from the desert Fathers provide other examples. One of Cassian's sermons tells of a monk who, wandering in the desert, refused food offered to him in compassion and died of starvation as a result.[168] Another ascetic in Egyptian tradition was remembered as having 'for the love that he bore to the Messiah in the excess of devotion *destroyed himself* seven times'.[169] (The expression I have underlined is not crystal-clear and is indeed self-contradictory, but analogues suggest the 'self-destruction' meant an asceticism burgeoning into suicide, followed by miraculous resuscitation.) These were all Christian, not Hindu, ascetics. But how could one tell?

The social background of Pachomian monasticism, and its need to settle an ambiguity that haunted other areas of Egyptian monasticism, therefore suggest themselves as two reasons why the Christian suicide law emerges into history then and there. There is a third. No civilization in history has taken more elaborate trouble with its dead than that of ancient Egypt. The fact that it should be here, on the soil of the most ostensibly burial-minded of all cultures, that Christianity should have adopted a particular, sharply profiled burial practice, may be pure coincidence. But the question is at least worth asking whether it is more than that; whether (that is) Christian suicide law may in fact, if by obscure and indirect routes, owe anything to the Pharaohs.

Pharaonic and Ptolemaic Egypt

Successive generations of research by Egyptologists have established that Egypt had built 'cities' for the dead, necropolises, some holding thousands of tombs.[170] Each necropolis was served by its hereditary gild of *necrophytes*,

[168] *Conlationes*, bk 2, ch. 6; ed. Petschenig, pp. 45.24–46.16; cf. *Vitae patrum*, ch. 44; *Pat. lat.*, 73, 841C–2A.

[169] H. G. Evelyn White, *The History of the Monasteries of Nitria and Scetis* [= pt ii (2) of *The Monasteries of the Wadi'n Natrūn*]. Publications of the Metropolitan Museum of Art. Egyptian Expedition, vol. 27 (New York, 1926), p. 302. The ascetic was St Paul of Tamweh. The author, H. G. Evelyn White, did not hesitate to interpret the phrase as suicide, followed (apparently) by miraculous revival. Again we are reminded of the Santiago pilgrim. (I thank Dr Mark Smith for introducing me to this work.)

[170] The following remarks are based on L. Kákosy, 'Probleme der Religion im römerzeitlichen Ägypten', in *Aufstieg und Niedergang der römischen Welt*, pt II, vol. 18, pt 5, ed. W. Haase [*Heidentum: die religiösen Verhältnisse in den Provinzen. Fortsetzung*] (Berlin and New York, 1995), pp. 2894–3049; F. Dunand, (with R. Lichtenberg), 'Pratiques et croyances funéraires en Egypte romaine', ibid., 3216–3315; with further material from L. Kákosy, 'Selige und Verdammte in der spätägyptischen Religion', *Zeitschrift für Ägyptische Sprache und Altertumskunde*, 97 (1971), 95–106; E. Brunner-Traut, 'Altägyptische und mittelalterlich-christliche Vorstellungen von Himmel und Hölle, Gericht und Auferstehung', in the same author's *Gelebte Mythen. Beiträge zum altägyptischen Mythos*, 3rd edn (Darmstadt, 1981), 60–85; *Lexikon der Ägyptologie*, ed. W. Helck, vol. 3 (Wiesbaden, 1980), cols 249–52 ('Jenseitsgericht'), and vol. 6 (1986), cols 108–10

mummifiers skilled in their art. (The art was already older by Pachomius' time than his memory is now.) To read the findings of these archaeologists—themselves a kind of *necrophytes*, busy at their ancient art among the tombs—is to be struck by two peculiarities of the burial practice they describe. The first, overwhelmingly, is continuity. The continuity is traceable from the third, even the fourth, millennium bc down to late Roman times. Beside it, the continuities of western history shrink to a semblance of days. In Egypt our senses have to get used to this vast continuity before we can notice any other peculiarities. When they do, however, we notice a second: movement.

Despite its apparent immobility, as seen from a distance, the burial tradition was alive and open to slow modification, a modification consequent, on one hand, to evolution in the ancient religion itself, and, on the other, to its receptivity to influences washing onto the Egyptian shore from the north. Egyptologists agree that evolution is detectable, for instance, in the emergence of the idea that a dead person is subject to judgement (his soul weighed in a balance to test its merits or lack of them), hallmarks of the concept being present on tombs as early as the third millennium bc. But the idea develops by small steps right up to the late Roman period, and even more in the accelerating Christianization of the third and fourth centuries ad. That particular evolution appears to have been fed by influences from the north, mostly Greek, in some sense, or Roman, in some sense. (One vivid illustration is the coin given to the Greek dead to pay Charon. The coin is found appearing in Egyptian tombs from just before Augustus' conquest, and in time becoming so naturalized that it can forget its Greek origins: the coin will be shown as paid, not to Charon, but to the unmistakable Egyptian god Anubis.) Most striking of all, as fruit of the evolution compounded from internal development and external influence, is the increasingly conspicuous emergence of the principle that it is the morality of a man's conduct during life—as distinct, for instance, from mere fortune or the possession of magical formulae—which earns him admission to the blessed company of Osiris, while bad people are sent to the Devourer. This concept is already much of the way, in fact, to that of a Heaven and Hell recognizable to medieval Christianity, whose manner of conceiving those destinies has actually been proposed as in debt to ancient Egypt.[171]

Our own particular question is whether suicides, as such, were among ancient Egyptian bad people who went to the Devourer, and, more narrowly, whether they might have been 'cast out unburied'. This pair of questions is

('Sünde und Schuld'); and A. J. Spencer, *Death in Ancient Egypt* (Harmondsworth, 1982); J. Černy, *Ancient Egyptian Religion* (London, 1952) is an accessible introduction.

[171] Brunner-Traut, 'Altägyptische . . . Vorstellungen' (as in n. 170).

hard to answer. The necropolises are almost the only evidence we have, so that if some bodies *were* cast out unburied, for any reason, they would have been unmummified and irrecoverable. (The notion that, at any period, anything approaching the entire Egyptian population ended as mummies, a notion defended by some Egyptologists, has to contend with the obvious expense of the process—could all have afforded it?—as well as with certain texts.)[172] The medieval European stranger's eye, for all its awareness of this limitation, may wander among the tombs, looking—through the medium of the careful reports of those who have uncovered them—for signs of suicide familiar from other cultures. In some, we learn that bodies have had their heads cut off or even removed altogether; yet others have been cut up into small pieces.[173] Were these criminals? Equally tantalizing to the time-traveller from medieval Europe are inscriptions which proclaim that they have condemned an individual to oblivion. Either the name has been hacked from an inscription or it is there with an imprecation: 'Let him be cast out on the ground from the temple, his name not being remembered in this temple, as is done to his like.'[174] Or a deceased can be defined as *aorōs*, Greek for 'untimely' and denoting victims of untimely death.[175] We have met the *aorōs* in Tertullian, who includes the *aorōs* among people believed to wander as ghosts,[176] and in some periods, we know, the *aorōs* was near neighbour to the suicide. After learning of that *aorōs* we may wish to pause and reflect on the absence from Egyptian inscriptions of that other word, *biaiothanatos*, or *biothanatos*. Does the absence show *biothanatoi* were denied full burial and therefore would never enter the tombs? Or only that the word was unknown? The same time-traveller, having studied burials in thirteenth-century France, may also wish to pause briefly on an Egyptian inscription for a young boy killed by a scorpion, whose body 'lies among the sands' like some of those bodies of French suicides.[177] If so, he must be reminded that this was Egypt, most of whose necropolises were among the sands.[178] Disappointed there, he

[172] Cf. Dunand (see n. 170), 3260, reporting a view among Egyptologists that from the end of the second millennium bc 'most of the population' benefited from mummification. Dr Dunand does not express any opinion on this view.

[173] Spencer, *Death in Ancient Egypt* 39–44. Among possible reasons Spencer does not suggest crime. For a text at odds with the notion see 'The Man Who Was Tired of Life', trans. W. and K. Simpson, *The Literature of Ancient Egypt. An anthology of stories, instructions and poetry*, 3rd edn (New Haven, Conn., 1977), 204.63–5: 'the weary ones who died on the riverbank through lack of a survivor [= to bury them], the flood having taken its toll and the sun likewise, to whom talk the fishes of the banks of the water.'

[174] Spencer, *Death in Ancient Egypt*, 71.

[175] Dunand (see n. 170), 3221 n. 13; and 3303.

[176] *De anima*, ch. 57 §§1 and 3; ed. A. Gerlo, *Corp. Christ., Series latina*, 2(2) (Turnhout, 1954), 865.1 and .17.

[177] Above, p. 50.

[178] Dunand (see n. 170), 3304 n. 418 (a note which quotes another inscription to the effect that

will pause more thoughtfully, and with as much of a hope as these remote tombs admit, on the picture of a particular mummy of the mid-Roman period. Its decoration, showing the reception of a good man's soul by Osiris, shows smaller figures, apparently rejected by Osiris: damned souls, in other words. Damned for what? The traveller will suddenly find himself longing, nostalgically, for the loquacity of a Gothic tympanum.[179]

The tombs are tantalizing, and yield up on their own only the very faintest hint even of the possibility that ancient Egyptian suicides were treated as exceptional. The faintness nevertheless glows brighter with papyri. From these we learn of the presence both of suicide, and of an intelligent consciousness of it, in the Egyptian black hole, 'very rare' though one expert estimates actual suicides to have been.[180] One reference will tell us of persons in despair threw themselves to crocodiles; another, of those who drowned themselves; yet another, reveal that the famous Cleopatra—technically, Egypt's Cleopatra VII—was not the first great, highly placed Egyptian to have committed suicide. What the Romans would call 'voluntary death', suicide imposed as a form of execution, was also known in these papyri. And just as the completed act was known there, so, safely behind its active front line, was suicidal rhetoric in the form of a threat used as a diplomatic weapon; as also of melancholy musings in the style of 'To be, or not to be'—the whole ensemble, in a word, eerily familiar.

This judgement is well illustrated by a text in the last of these categories, dating from the Middle Kingdom (*c.*2040–1786 bc). It is now known as 'The Man Who Was Tired of Life'. As far as it is decipherable, it seems the complaint of a man who converses with his own soul: it 'draws me toward death ere I have come to it and casts me on the fire to burn me'.[181] The whole piece is reminiscent of the *disperato* poetry of the Renaissance, and deserves a Chapman or an Edward Fitzgerald:

> Behold, my name is detested,
> Behold, more than the smell of vultures
> On a summer's day when the sky is hot . . .
>
> Behold, my name is detested,
> Behold, more than the smell of crocodiles,
> More than sitting by sandbanks full of crocodiles.[182]

'my body rests in a tomb, on a mass of sand'). The inscription is tell-tale, and 'late'—by ancient Egyptian standards—because it implies a separation of soul and body.

[179] Kákosy, 'Selige und Verdammte', 103–4; 'Jenseitsvorstellungen', 3010–11.

[180] *Lexikon der Ägyptologie*, vol. 5 (1984), col. 829. The estimate is that of the author of this article, Dr Robert Schlichting.

[181] 'The Man Who Was Tired of Life', lines 12–14; trans. Simpson, 202. (Acquaintance with this translated text is yet another of my debts to Dr Mark Smith.)

[182] Ibid., between lines 80–96; trans. Simpson, 205.

The author goes on to speak of death as 'in his sight' and compares it with a sick man's escape from the sickroom, and to a homecoming after many years away or in captivity.[183]

But what of our curse? Do the papyri, more eloquent than the tombs, give any hint of it? More than one of the suicide allusions do, in fact, suggest that suicide was believed to hinder a soul's progress after death, and to constitute a corresponding disqualification from proper burial.[184] The author of 'The Man Who Was Tired of Life' underlines the ultimate transience even of tombs, as if neutralizing, in himself, a fear that his suicide might exclude him from one: 'those who built in granite and constructed halls in goodly pyramids with fine work, when the builders became gods their stelae were destroyed, like the weary ones who died on the riverbank through lack of a survivor [to bury them].'[185]

The curse is spelt out less equivocally by mythology. A late Ptolemaic papyrus, known as the Jumilhac papyrus, tells of the confrontations of two mythological beings, Thoth and Baba. The latter had anyway an evil reputation, and at one point in his confrontations with Thoth, Baba

> equipped himself with his martial weapons and marched against Thoth. But Thoth pronounced his charms against him and Baba, seizing his bronze weapon, administered a blow to his own head.[186]

The council of gods declared 'his weapon is in him', and turn Baba away. ('It was then said "turn him away, o Re!" Thus speak the gods.') As a consequence Baba's name 'is *ḥfty* until this day':[187] that word, *Ḥfty*, had a meaning like the Germanic *feond/fiant*, ancestors respectively of the English 'fiend' and German 'Feind [enemy])'. *Ḥfty*, that is, was understood as an 'Enemy' commonly conceived in spiritual form.[188]

The episode in which Baba became *ḥfty* may also be associated with the genesis of a hieroglyph. Dr Mark Depauw (who has generously advised me on these matters) has drawn to my attention an ancient hieroglyph which seems to depict a man who had been struck by another, and with blood pouring out of his head (Figure 4). A later development of this hieroglyph (Figure 5), reminiscent of the bewitched Baba's suicide (and—it is suggested—intentionally

[183] 'The Man Who Was Tired of Life', between lines 130 and 145; trans. Simpson, 208–9.

[184] Schlichting, as in n. **180.**

[185] Trans. Simpson, lines 56–65; cf. n. **173**. Simpson sees here an allusion to the destruction of the royal pyramids after the fall of the Old Kingdom.

[186] XVI, 18–20 (##550–553). My translation is from the French of O. de Jumilhac and J. Vendier, *Le papyrus Jumilhac* (Paris, 1962), no. 128 (under §10 'Neuvième chien'). I owe this and the following five references to Dr. Mark Depauw.

[187] XVI, 20 (§§554–5).

[188] *Lexikon der Ägyptologie*, vol. 1, col. 982.

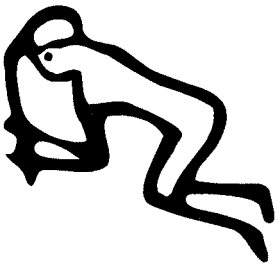


Fig. 4 Ancient Egyptian hieroglyphic determinative (with evil connotation), thought to represent a man hit and with blood pouring from his head

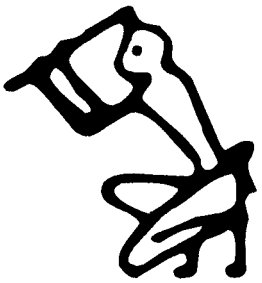


Fig. 5 A later form of the determinative in Fig. 4, in which a man strikes himself in the head with an axe

so) turns the angle of the figure and gives him a weapon, with which he is unmistakably striking his own head.

This latter hieroglyph was used as a 'determinative', that is, a sign qualifying those before it in an evil sense (not unlike the endings *-osus* in Latin, or *-uccio* in Italian, or like adding 'the wretch' to an English name). This determinant was used especially to qualify the word *ḫfty*, to make it 'evil spirit', whence (in its mythological context) the association with Baba. The word *ḫfty*, so qualified, could also be used to denote the spirits of persons turned away and damned at the Judgement of the Dead.[189] We learn that this class of rejects included, besides suicides, persons killed untimeously, as by a snake-bite; but our encounters with the Greek *aōroi* and *biaiothanatoi*, and their Hebrew and Indian analogues, not to mention anything we have surmised from medieval evidence, will render this juxtaposition unsurprising. Indeed they have led us to expect it. Whatever company suicides may have

[189] E. Hornung, *Altägyptische Höllenvorstellungen*. Abhandlungen der sächsischen Akademie der Wissenschaften zu Leipzig. Phil.-hist. Klasse, vol. 59, fascicule 3 (Berlin, 1968), 34–6.

lacked in this world, they seem often, in these early cultures, to have been accompanied to the next by other souls cut off suddenly, 'dying while alive'.

Christian Egypt

Even with these suggestive papyri and hieroglyphics, pre-Christian Egypt remains almost the blackest of black holes. But around Pachomius' time, it suddenly becomes rather less of one. So let us transfer our double question—'why here?' 'why now?'—into this better-lit environment. As Christianity came to Egypt and Christians became a substantial minority of the population, some of *them* chose to be mummified after death. It is not too hard to read in that choice the principle behind it: if my body is to be resurrected, how much more reason to have it well-prepared, with perfumes, and preservations.[190] Christian mummies (often identifiable only by a cross) are yet another sign of the absorptivity of the old religion—since they can as well be seen as signs of Christianized pharaonic religion, or vice versa (pharaonic religion Christianized). This hybrid stage did not last long. But the fact that it had lasted at all may indeed offer the first hint, still hypothetical, that the ancient Egyptian past had anything to do with Pachomius' instincts on burial. For as Christianity spread further into the population, peaceful existence had ended. The change coincides with the imperial reigns of Constantine (312–37) and Theodosius (379–95), under whom a stricter, intolerant version of the new religion made itself felt, at least in zones exposed to imperial control; and it was at this point that the millennia of continuity in burial practice began to falter. The old burials lasted to the fifth century ad, and perhaps as late as the early seventh. But the practice was increasingly attenuated, not least because it was subject to a positive Christian assault.

To which the monks contributed. Pachomius, after all, was Constantine's late contemporary, and the political-diocesan advance of Christian authority in the towns and their near hinterland was accompanied, round the fringes of the desert, by the ascetic monasticism of which Pachomius was a leading protagonist. This monasticism joined in reacting against the age-old burial customs. In his youth, the first *Life* of Pachomius tells us, the future abbot had spent whole nights in prayer in a necropolis, a practice we know to have been anathema to old taboos which kept ordinary citizens away from those cities of the dead, and of which the young Pachomius cannot have been ignorant.[191] St Antony (†356) made his opposition to the old customs the subject of almost his last words, telling his disciples on his deathbed that traditional Egyptian

[190] Dunand (see n. 170), 3305 (Christians mummified); Kákosy (see n. 170), 2932–3 (growing influence of Christians and friendly coexistence).

[191] Dunand, (see n. 170), 3306, with other examples.

burial was something he had moved out into the wilderness to get away from. His dying request was that, if his disciples wished after his death to remember him lovingly as a father, they should bury his body in earth, not in an Egyptian tomb.

> Do not let anyone take my body to Egypt and go and deposit it in one of the buildings. You know how lowly I have always viewed people who do that, and how I have given orders that customs of this kind should be brought to an end. Just bury my body yourselves, and cover it over with earth.[192]

This initiative, whose swiftness and sense of purpose form an almost brutal punctuation in the Christian–pagan coexistence which had been part of—and perhaps a guarantee for—the continuity of old burial custom, therefore suggests a third element in the background to Pachomius' decision on suicide. He and his fellow spirits were drawing a line between their own and all other religious currents, a line which, in Egypt of all places, had to be drawn with particular clarity in respect of burial. It was not a question of Pachomius' inventing non-burial—or unceremonious, disgraceful burial—for suicide. That trace element has been detected through much of the Greek world, not least significantly in Judaism, parent of Christianity, and perhaps even in the old Egyptian religion; it was rather a question of his picking out this trace element and insisting on it, as part of the perimeter wall identifying Christianity. The other factors, identified earlier, contributed their part: the special demands of any numerous community, and the need to build a wall most emphatically in the direction of ascetic influences from further east, ambivalent, at best, on suicide. But this condition formed a third: the weight put on burial, as an idiom of religious expression, in what appears, from what survives to instruct us, to have been the most burial-oriented of ancient cultures.

Pachomius, in all probability, set an example, and intended to. That is not to say the presence of suicide law in Egypt after his time was necessarily due to him and his monks. We do not know, and must bear it in mind only as a possibility: populations which held the monks in reverence were likely, other things being equal, to accept their rulings on Christian law. The possibility survives the only other evidence we have, of any directly legal kind, of the existence of this law in Christian Egypt; a reply given by a patriarch of Alexandria, Timothy, in 381, to a query put by a group of his own clerks who appear to have reacted to a real case of suicide in their common home-city of

[192] Athanasius, *Vita s. Antonii*, ch. 91; *Pat. graec.*, 26, 972AB: '*μή ἀφεῖτέ τινας τὸ σῶμά μου λαβεῖν εἰς Αἴγυπτον, μήπως ἐν τοῖς οἴκοις ἀπόθωνται τούτου γὰρ χάριν εἴσηλθον εἰς τὸ ὄρος, καὶ ἦλθον ὧδε. Οἴδατε δὲ καὶ πῶς ἀεὶ ἐνέτρεπον τοὺς τοῦτο ποιοῦντας, καὶ παρήγγελλον παύσασθαι τῆς τοιαύτης συνηθείας. Θάψατε οὖν τὸ ἡμέτερον ὑμεῖς, καὶ ὑπὸ γῆν κρύψατε.*'

Alexandria. The clerk's question was, in our document's words, were burial rites to be denied to a man who had 'stabbed himself or jumped to his death' while possibly 'not possessed of himself'? The reply shows a similar spirit to that of the Tabennis fathers a generation or two earlier. The patriarch writes:

> On this matter the clergy will have to decide whether he really *did* do this when he was out of his mind. Because the next-of-kin of the person to whom this happens often tell lies in the hope of getting oblation and prayer made for him. They say he was out of his wits, even when it was on account of his ill-treatment by other people or some other trifle that he killed himself. No oblation or prayer should be made in such a case. The man counts as a self-homicide.[193]

Timothy wrote two generations after Pachomius (381, against the 320s or 330s); but that is not the time-lag, if there was one, between the Tabennis decision and the operation of a law in Alexandria; for Timothy's reply, like so much of our legal evidence, betrays the *pre*-existence of the law he seeks to enforce—the family 'often' tells lies; they 'pretend'. He writes as if both suicide and the law of non-burial were established facts.

Timothy's rescript may also cast light on a piece of evidence we considered from the Alexandrian philosopher, Elias, in his commentary on Porphyry's *Isagoge,* quoted in Chapter 15. It will be recalled how Elias wrote that 'the laws of the Romans [*hoi Romanōn nomoi*] do not permit the burial of a suicide unless it has been mutilated in its feet.'[194] This Christian Neoplatonist, referring to current law in the course of a philosophical excursus, wrote near the end of the sixth century, and the 'Romans', at that date would almost certainly have meant Justinian and his Empire. The burial laws of these 'Romans' were therefore still distinguishable, in this particular at least, from

[193] J. B. Pitra, ed., *Iuris ecclesiastici graecorum historia et monumenta.* 2 vols (Rome, 1864), vol. 1, p. 637: '*Ἐρώτησις ιδ'. Ἐάν τις μὴ ἔχων ἑαυτὸν χειρίσηται ἢ κρημνήσῃ ἑαυτόν, εἰ γίνεται προσφορὰ ὑπὲρ αὐτοῦ, ἤ οὔ; Ἀπόκρισις. Ὑπὲρ αὐτοῦ διακρῖναι ὀφείλει ὁ κληρικὸς, εἰ τὸ ἀληθὲς ἐκφρενῆς ὢν πεποίηκε τοῦτο. Πολλάκις γὰρ οἱ διαφέροντες τῷ πεπονθότι, θέλοντες ἐπιτυχεῖν τῆς προσφορᾶς καὶ τῆς ὑπὲρ αὐτοῦ εὐχῆς, καταψεύδονται καὶ λέγουσιν ὅτι οὐκ εἶχεν ἑαυτόν. Ἐνίοτε δὲ ἀπὸ ἐπηρείας ἀνθρώπων ἤ ἄλλως πως ἀπὸ ὀλιγωρίας πεποίηκε τοῦτο, καὶ οὐ χρὴ προσφορὰν ἐπάνω αὐτοῦ γενέσθαι αὐτοφονευτῆς γὰρ ἑαυτοῦ ἐστι. Δεῖ οὖν πάντως τὸν κληρικὸν μετὰ ἀκριβείας ἐρευνῆσαι, ἵνα μὴ ὑπὸ κρίμα πέσῃ.'* Cf. *Pat. graec.*, 33, 1305–6. (Both texts print a Latin translation.) The double text is also in Mansi, *Concilia*, vol. 3, 251E–4A; cf. Bayet, *Le suicide*, 364–5, with an apparent misrepresentation of the last sentence. Bayet remarks that the great Alexandrian theologians of the previous century, Clement († *c.*215) and Origen († *c.*254) had made no mention of the punishment of suicides. While negative evidence of this kind is always worth noting (especially in view of both theologians' familiarity with traditional Egyptian burial rites; Kásoky (see n. 170), 2931–2), the evidence set out in this volume—not least here—suggests that by far the best chance laws of this kind had of entering the records was through a decision made by authority in response to a particular case. Clement and Origen held no such authority, so would have no reason to mention suicide laws.

[194] Above, p. 493.

those of other currents of tradition surviving in Egypt. All of them were due to confront another novelty, as big or greater than the impact of Constantinian Christianity, in 641. Then, the Muslim conquest brought a new momentum of religious disciplinarianism, equally hostile to suicide—though without (of course) ending it.[195]

By the time of the Muslim conquest, a century had passed since Martin of Braga had 'set out for the East to visit the holy places'. That Martin visited Egypt at all remains hypothesis, short of certainty. But that does not render immaterial our own pilgrimage there. What is not hypothesis—and incidentally corroborates the hypothesis of an Egyptian visit—is that Martin showed the highest interest in monasticism of specifically the Pachomian school. It is not certain, only (again) hypothesis, that his extensive literary knowledge included the ability to read Greek. The same goes for the possibility that the monastery he founded near Braga, at Dumium, followed the Pachomian rule. In a biography of this place and period very little can be certain. But one thing that is, is that Martin commissioned a Dumium monk to translate from Greek *The Sayings of the Egyptian Fathers* (the relevant codex may even have come west in Martin's luggage) and the monk's preface to the translation refers to a further proposal to translate the *Lives* of the same Egyptian Fathers. While, yet again, we do not know that this latter translation saw the light of day at that date, that likelihood too has to be added to our heap of mutually corroborating probabilities. If that one *is* true, then Martin could have read the story of these two suicidal nuns in a *Life* of Pachomius, just as he could have read that of Hero in Cassian's *Conlationes*.[196]

Ancient analogues to the medieval non-burial of suicides have proved heterogeneous, too much so to allow a precise picture of their mutual relationships. They have been like stars of different types and sizes, scattered in period and place. The sparseness of the constellation has nevertheless had an advantage. If we temporarily detach the Braga canon, mentally, from the relatively dense medieval documentation that came after it and affix it, instead, to its ancient antecedents, the canon fits that sparse constellation as well as any other of its members; indeed just detectably better. For not only does the Braga wording echo those Pachomian refusals of *memoria et oblatione*, across two and a half thousand miles of sea, but in Martin we have the *desideratum* all seekers of origins yearn for: a human bridge. Few, if any, such missing links were discoverable between those scattered points in the Greek

[195] At least four of Dr Rosenthal's collection of 45 Muslim suicides occurred in Egypt; Rosenthal, 'On suicide in Islam', 258–9 (cases of 1264, 1324, 1340, 1367).

[196] For the possibilities and probabilities: Ferreiro, 'Heretics' (see n. 144 above), 391. That the earliest extant MS of the *Vita tertia* was made in the eleventh century does not mean it was not compiled earlier, for instance, soon after the *Lausiac History*. Cf. pp. 575, n. 149 and 576, n. 152.

and Roman evidence. No doubt that was because they reflect a vernacular culture largely submerged below the level of writing, before the new class-amphibious Christian religion spread, writing things down in its codices as it went. But between patristic Egypt and barbarian Spain—Egypt, the last point of the ancient constellation, Spain, the first of the medieval—a missing link has been sought, and found. One man, even so influential and seminal a figure as St Martin of Braga, cannot constitute a simple answer to the question we began with. The answer he gives us is nevertheless simple enough, I hope, and by a safe margin, to claim the modest significance these last pages have given it. It has been revealed as one visible suture, or one visible strand of a more elaborate suture, between the earliest document of medieval European suicide law and its next nearest document in antiquity; like its next nearest star, shining enticingly from a distant, sparse constellation—as Dante's Heaven shone to the best of his pagans, though they lacked all hope of reaching it—among the impenetrably dark, and measureless, interstellar spaces of antiquity.

Conclusion

Roman religion, it was said earlier, was not the monolith it appears from many centuries' distance, but had tiers; and this tiered quality was joined as both cause and effect with another, equally hard to see from a distance, namely change. A ceaseless dialectic between elements even slightly different gave impetus to an equally ceaseless evolution, if one slow and invisible. To adapt a phrase of Dante's, it remained

> unseen and unremarked, so slow
> its motion, while our little lives flash by.[197]

This pattern of change is easy to see if we look at nature. There, motion happens at very different speeds, from the speed of light down to the slowness of the movement of the earth's tectonic plates, and slownesses even beyond that. The slower of these natural motions, like that of the earth's plates, can appear as no motion at all except at its crises, like earthquakes or volcanoes. Then, infinitesimal changes in degree, accumulated over a long period of apparent stillness, suddenly erupt into a change in kind; a new configuration emerges, before the whole process starts again.

In history these eruptions are events, which dominate most of our historical landscape, and not without reason. One reason is a good one. Events are part of life, whoever we are. We all have moments of special activity and con-

[197] Dante, *Par.*, 16: 79–81: 'Le vostre cose tutte hanno lor morte, / sì come voi; ma celasi in alcuna / che dura molto, e le vite son corte.'

centration, anticipated and looked back on from calmer periods, and this is true not only for individuals but also for groups, like countries. For both, the intensive moments are the outcome and cause respectively of the calmer periods before and after. The Conqueror's victory at Hastings was partly determined by shortcomings in the Anglo-Saxon military system, and the victory partly determined, in turn, that later medieval England would have a French-speaking aristocracy. No events: no history.

But events are still not the whole story. The problem—in ourselves, not in what we study—is that the slower-moving parts of history get neglected because events swallow more than their fair share of attention. There are good reasons for this too; but they are ones which, unless identified and subject to correction, will distort our picture. The reasons are two. One has to do with narrative. Crises, like battles, are the daily bread of narrative, and narrative history is the kind that has always kept men spellbound. Its secret is simple: narrative uses the measuring rod of the short span of life. Even where sagas join lives end to end, they use man's seventy years as basis for a metric system which enables a storyteller to project our imaginations across centuries otherwise impassible. However distant the period, his account welcomes us into a conceptual home-from-home as in sentences like 'By now Alaric's army had begun to disperse' or 'Louis the Pious lacked his father's military skills.'

That is one good, but potentially misleading, reason why events dominate the landscape. The other is equally solid and equally misleading if not identified; it also relates to time-scales, but this time to scales longer than a human life, and longer by enough of a margin to make significant historical periods. Events mark out—as in marking out a tennis-court—what would otherwise be an expanse of time formless and therefore inaccessible to thought. As well as our strictly numerical chronological scales—the 'ad' scale being only the most successful, having become so by superseding others, all (like it) based on events—historians anchor a variety of time-grids in reigns, conquests, revolutions, discoveries, seemingly significant lifetimes, and so on. (We use these grids when we speak of 'pre-Islamic Syria', 'post-war England', or even, indirectly, 'pre-Raphaelite'). What these devices do is allow us to map history into meaningful periods—of expansion, contraction, renaissance, *fin de siècle*, and more—and thereby project the mind into a dimension it could hardly experience at all otherwise. Without them, we would have to remain like Claude Lévi-Strauss's savages, each on our 'island of time'. Where narrative wins the imagination, in other words, chronologies free the intellect. That is the second good reason why events dominate history, and it is a reason, like the first, which can undo much of its good work if left unidentified. In those two ways, they convey us into past time; but for the voyage to be fruitful we

must know how to disembark and explore the slow processes that lie between those dateable points.

The exploration in these last two chapters was undertaken on this principle. Its quest was for the historical roots of a medieval taboo uniquely powerful, and uniquely baffling to normal explanation, and it went deliberately beyond the obvious landmarks—a treatise here, a legal enactment there—which allowed entrance to our study of medieval suicide in the first place. These last two chapters have sought to continue diachronically (like a video) the search begun synchronically (like a photograph) for the roots of the medieval law and pollution rules rehearsed in the previous three. Despite their air of a world tour, their subject has remained strictly domestic, their out-of-bounds character lying only in the deployment of distant mirrors to take readings from below the obvious floor of medieval European culture, at levels to which surviving documents—loyal children of events—give at best grudging access.

After looking at evidence of such varied character, from so many different times and places, an attempt to summarize this volume would risk brutality (like an event, its accidents would contaminate all that led up to it). But an author who has led an expedition so far afield would have himself to blame if, on getting home, he found his party gone and were charged with having lost them. So to avoid that, let me try to state the outcome in a few sentences. It is, surely, that the the medieval curse on self-murder had more sources than 'the Church', whether that is taken in some sense as a whole, or is represented by any one theologian or council. In idioms appropriate to the legal structures it passed through, the taboo on suicide represented one of two contrasting reactions to it, both of which left their mark in a variety of cultures and periods: one reaction more or less indifferent, the other emphatically negative, and dealing out punishments for suicide all the more severe because there was no one there to punish.

Christianity therefore faced a choice between traditions older than itself. It opted for the condemnation, and may possibly have done so from the start. What little we know about the early historiography of Judas and other New Testament villains, and of unwritten Jewish law, would suggest this; while the oldest surviving record of a Christian leader's refusing formal burial to a suicide already shows him confident in his prescription, as if he had not invented the penalty there and then. A rationale for the penalty took longer to formulate. Until Constantine's conversion had confirmed and enhanced the Christian presence in the Empire, not only had Christians priorities more urgent than to define every moral question, but Stoicism, with its hagiography of Lucretia and Cato, fed ideals of chastity and martyrdom welcome to Christianity yet laminated, in their ancient form, with a respect for suicide

as the efficacious sign of virtue. It was this lamination that stirred Augustine to condemn suicide categorically, removing its mask as martyrdom or as guarantor of virginity. What he wrote remained for centuries the main Christian tract on the subject, enjoying this privilege not through its own rhetorical merits alone but because the suicide taboo, descending in the late Roman period with the Church's encouragement, long remained strong enough to stifle its own apologetic. When scholastic moral theologians did finally address the subject directly, they drew their arguments predominantly not from Christian predecessors, who hardly existed, but from a revived pre-Christian author, Aristotle; illustrating thereby, again, both the intuitive character of its own revulsion and the extreme slowness of the wavelengths shaping the relevant laws—from ancient Athens to Capetian Paris.

That mention of wavelengths does not imply slow evolution. I mentioned slow evolution just now as an example to illustrate the variety of time-scales on which change happens. But to apply the term of the suicide taboo would be misleading, and would *inter alia* fan the embers of that idea of a *morale nuancée* on suicide, which vitiated Bayet's otherwise brilliant study of the subject in 1922.[198] What we have found was at bottom not an evolution, but an oscillation between the two extremes available. Law was Janus-faced, one or the other. Church attitudes did evolve, but the evolution did not touch its choice between the extremes, lying rather in an ever more precise difinition of all its ideas on the subject and their elaboration in institutions. Nuance was what there was not. The topic did not admit it. The third volume of this trilogy, whose subject will be suicidal states of mind, will discover the same there: that is, another evolution in the articulation of reactions rather than in a choice between them, as thoughtful minds slowly charted the double character of emotions behind self-murder, as an object inviting extremes, simultaneously, of horror and sympathy.

That will be another exploration. It is time to end this one. I began it with some unceremonious remarks about suicides as social waste, comparing them to the waste of other living organisms. I finish with some more unceremonious remarks, about the means by which that one particular living organism disposed of this particular bit of its waste. Let us for a moment look at it all from the suicide's point of view. Try to imagine the prospect of having your dead body dragged through the streets, battered and mutilated, then hung on a gallows and flung into a carrion-pit. It is not agreeable. Nor is the prospect that your property will be seized or destroyed and your name disgraced and forgotten. If two grains of charity remain in a suicide in his last moment (and supposing he still cares one way or the other), it may be equally disagreeable

[198] A. Bayet, *Le suicide et la morale* (Paris, 1922); cf. *The Violent against Themselves*, 19.

to think that the act of suicide may render our next of kin destitute. As for religion, only *one* grain is needed to inspire a certain chill at the thought that, if there should indeed prove to be life after death, everyone agrees ours will be in Hell, where we shall roast for ever—or be pecked by Dante's harpies—and it is no use anyone's praying. The sanctions imposed on a medieval suicide, in sum, whether taken one by one or as a group, were the *nec plus ultra* of terror. It is not just hard to imagine anything worse. It is impossible. That was the whole idea.

There is no proof, for all that—proof of a kind to move hard sceptics, that is—that anyone ever has actually come back from the dead, nor (partly in consequence) that consciousness can survive physical death. If it cannot, then of all those elaborate, horrific, painstaking and paingiving punishments or supposed punishments, the suicide feels nothing. Nothing. You and I suffer more by sympathy with an insect being devoured by a spider on the far side of the globe than a medieval suicide, once he was that, could *feel* any of the mutilations, expropriations, and humiliations that survivors heaped on him. Of course, some people do believe in Hell. But what is to say—and again, with a conviction likely to move people who insist on scientific proof—that belief in Hell is anything other than a fact about living people and their horrid fantasies? And as a matter of fact—this time eminently demonstrable—very large numbers of people in all known centuries (including the Middle Ages) and—a crucial point—including people who have said they believed in Hell, have actually behaved as if Hell were mere fantasy, doing unspeakable things for which Hell (if there is one) could hardly fail to be the right punishment.

Now that this particular investigation is over, the question therefore arises of what all these people who did not commit suicide thought they were doing by bombarding, with imagined penalties, those configurations of inanimate chemicals which constituted the subject of the previous volume? Was all that law and ritual—in reality, never mind people's beliefs and fantasies—all just one, big, institutionalized swear-word? Was it, to say it another way, no more than a passionate, chronically unselfcritical, intoxicated exercise in play-acting by actors who were themselves also the audience, and contrived only to boost the survivors' self-respect?

Here and there this book has suggested answers. At most they were partial answers, and had to be. Those of us who affect to study and draw conclusions about human behaviour, whether under the name of historian or some name ending in '-ist', have to be content with partial answers. And if they are partial, then for all anyone knows—no one seeing the whole—they may be infinitesimally partial: like grains of sand on a broad shore stretching to a vanishing point infinitely far away. From the pace at which modern science moves

forward, nothing suggests any limit on the capacities of the human mind, in that direction at least. And if there really is no limit, then that very fact creates a limit—since if the capacity of mind is infinite there is one thing it will never comprehend, namely itself (since nothing can comprehend the infinite).

In strict justice, then, I should leave things there, and be content to have written the history of an institutionalized swear-word, meaningless except as expressing the psychology of people long since dead. But, like Hamlet, I hesitate. In daring to speak of suicide, Hell, and all that goes with them (including nobler deaths, and Heaven), I seem to have crept up on another of that bundle of questions about the most haunting and ineluctable of human concerns, time. Einstein, and those who have leap-frogged over him and each other, have made public property of the more manageable of the bundle of time-questions, the ones *not* concerned with human beings *qua* the infinite and incomprehensible (as distinct from *qua* physical bodies). But there remain time-questions which are not public property, which perhaps can never be. I am thinking of one especially. It is, whether all human experience may not somehow be permanent 'out there', away from time altogether, that is, all past experience, with its galaxies of fine-woven pleasures and pains, delights, tortures, triumphs, defeats, suicides—everything; and whether our and our ancestors' curses, and all those beliefs bred with them, may not be expressions, albeit profoundly inaccurate, crude and often cruel, of intuitions about *that* sort of timelessness?

What questions for a historian to ask, of all people. No human being can breathe, let alone study history, without treating past, present, and future as different things (try breathing in and out at the same time). Our minds lodge comfortably in the succession of times, and that means ignoring, as a prerequisite of staying alive, both that conjectural timelessness and, simultaneously, the very ubiquity of a successive time, the knowledge that it flies unceasingly: that the moment I wrote or you read the last-line-but-one has already gone irretrievably. Now it is true of *that* line. Now of *this*. . . . And if, in this way, all things are perpetually in motion—*panta chorei*[199]—then, in some other way, out among the stretches of the infinite shore beyond the infinitesimal grains we see, may not all things—*all*: the countless galaxies of all human experience—also be permanent and present now?

This history of a curse has been partly, then, a history just of passionate but meaningless words and acts. I hope it is not too much the worse for that. Even apparently meaningless words and acts are evidence of something. Everything is evidence. But that very word, evidence, inspires a final reflection: that history, however much evidence it accumulates, cannot solve its own

[199] 'πάντα χωρεῖ'; Plato, *Cratylus* 402A (quoting Heraclitus).

questions, because they lead outside the evidence, to somewhere else. I certainly do not trust myself to say where that is. Compiling this chronicle over the years has made me too much of an evidence-dweller, a primitive animal at home in a prehistoric forest. But was this not why, right from the start, I brought along a *fida compagna* to turn to (as Dante turned to his) if seized by a fit of uncertainty? Of course it is. So let *him* answer, and say where, namely in

> *quel consiglio nel quale ogni aspetto*
> *creato è vinto pria che vade al fondo.*[200]

[200] *Par.*, 11: 29–30: 'that counsel in which every creature's gaze / must stay defeated, short of the depth.' The expression 'fida compagna' (for Virgil) is in *Purg.*, 3: 4.

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Index

Abbeville 16 n., 17 n., 18 n., 25–7, 29, 58–9, 61, 455–6
Abelard, Peter 206, 211, 213 n., 214–15, 218–19, 240, 270, 375 n., 454
  Christian Theology 203–4
  Ethics on conscience 396
  Sic et non 200–3
  severe on Judas 360
  use of Macrobius 202–3, 210, 223
Abimelech 91–2, 97, 195, 197, 440
Abraham 115, 119, 212 n., 243, 372
Accursius, Guilelmus 277, 282, 407
acedia (accidia) 301, 374, 384–5
Achitophel 93, 97, 195, 197
  as 'type' to Judas xvi, 328, 353
Acts of Andrew and Paul 362
Aelfric of Eynsham 349, 374
Aeschines 509–10, 524
Africa, suicide in 61, 534–9
Agnes, infanticide of Cologne 405
Agobard, bishop of Lyons 479 n.
al-Masudi, traveller 567
Alan of Lille 271, 274–5
Alaric II, King 176
Alberic of Rosciate (Albericus a Rosato) 35 n., 278, 280–1
Albert the Great, OP 226, 230, 307 n.
Aldhelm of Malmesbury 252 n., 474–5
Alexander the Great:
  effect of conquests 131–2, 136, 516
  example of magnanimity 227–8
Alexander of Hales, OFM 219–25, 232
  on despair 390–1
  on distinction of faith and hope 376
Alexander Severus, Emperor 157
Alfred, King 332
Alighieri, Dante:
  Divine Comedy: *Inf.* 13 (the suicides): illuminated MSS xvii–xviii, 62; its punishments paralleled among non-European peoples 535; *Inf.* 28 (Muhammad), *Inf.* 34 (transition) 1; *Purg.* 1 (transition) 1, *Purg.* 5 (tempest on death of a damned soul) 477, *Purg.* 6 (Florentine legislation); *Par.* 11 598 (truth), *Par.* 16 (history) 592; commentators on *Divine Comedy* 191 n., 320, 386–7; *see also* Benvenuto da Imola
  Rime, on Dido 450
  influenced by: Macrobius 146; republican Rome 161
  view of suicide analysed 289–306
alms, for suicides 257, 260–2
Amata, queen of Latium, *see* Virgil, *Aeneid* 7
Ambrose, St 99 n., 100, 139 n., 212
  on St Pelagia 111, 143
  in *Sic et non* 202
Ammianus Marcellinus 144
Andrew of Wyntoun, poet 381 n.
Angelo of Arezzo 278, 284–5, 421 n.
Angelomus of Luxeuil 191 n., 195
Angers 33
Anglo-Saxon Chronicle 349–50, 355
Anjou 57–8, 61
Anselm of Laon 197–8, 201, 320, 431, 477
  and *Miracles of St Mary* 326
Antipater 135
Antoninus Pius, Emperor 157, 162, 173
Antony of Egypt, St 588–9
Aquinas, *see* Thomas Aquinas
Aristippus, Henry 222

Aristotle 55, 87, 128, 215, 504, 595
lost *Constitutions* 511–12
Nicomachean Ethics 30, 125–7, 266, 417; bk 5, ch. 11 text in English 126–7, in Greek 508; character 226–9; character of medieval influence 241–4; as evidence on contemporary Greek practice 508–9, 524; quoted: by John of Wales 213 n., in *Summa fratris Alexandri* 222, by Aquinas 229–31, Durand of St Pourçain 231–2, Remigio de' Girolami 232–4, Guido Vernani 234–5, John XXII 239, Johannes Nider 240–1; reception 224–7; translation of 372–3, 378
scientific writings 223
influence of: on Bartolo of Sassoferrato 282; on Dante 291 n., 293, 295, 297–8, 300 n., 305
medieval Aristotelians 293
Arles, 2nd council (*c.*455) 182
Arras, Book of Hours xx–xxi, Plate 10(b)
Artemidorus 507, 524
attempted suicide 177–81, 184–6, 396–425, 580
case in Hainault 420
case at Missenden, Buckinghamshire 61–2, 320, 403, 421, 444, 449, 463
in Germanic saga 569 n.
Atto, bishop of Vercelli 196
Auerbach, E. 429, 441, 471, 498
Augsburg 477
Augustine, St 32, 87, 96–7, 128, 110–14, 143, 151, 162, 206, 417
Confessions 308–9
Contra Gaudentium: comparison with Muslim *Shurat* 559–62; on suicide and martyrdom 104–10
De civitate Dei, bk 1 110–21, 195, 197; aware that suicide can hurt friends 228; and Dante: latent influence 301, 306, why embarrassing 315, on Lucretia 302 n., 304; distinction of pollution and guilt 398; influence on: John of Salisbury 207, John of Wales 212, William of Auxerre 220; quoted by: Aquinas 229–31, Durand of St Pourçain 232, Ivo of Chartres 271, John XXII 238, Nicholas I 268, *Summa Alexandri* 221–2, Thomas of Chobham 272; read by St Martin of Braga 574; question of influence in Braga canon 486–7; on virgins 202; writing against pagans 205
baptismal theology 481
distinguishes faith and hope 376
on doctrine of 'special divine command' 108, 135, 233–4, 461
general character of St Augustine's doctrinal influence 241–4
on impossibility of ghosts 471
on Jacob's 'lie' 372
on Judas: his 'despair' 386; his noose 326, 449
and Manicheism 129 n., 223
on question of suicide and courage 118
read Porphyry 148
Autun, cathedral of St Lazaire xx, 328–30, Plate 9(a)
Auxerre, Carolingian school 346–9, 351, 354–5
Auxerre, council (*c.*600), canon 17, 400, 430–2, 563
character 186–8
diffusion 270–2, 275
text 184
vocabulary and commentary 436–8, 443
Avicenna (Ibn Sina) 223, 376
Avignon 39, 236
Ayenbite of Inwit 378

Baden, laws of 37, 39
Baechtold-Stäubli, Hanns 20–2, 28, 41 n., 51n. 334 n., 449, 473, 504 n.
  and suicide taboo among early Germans 568–9
Baldo de' Ubaldi (Baldus de Ubaldis) 11 n., 278, 285 n., 408 n., 410 n., 417, 419–20
Bamberg: suicide buried in 463
barrel:
  used to dispose of corpse xiii, 37–41, 446–7; *see also* river
  used to preserve corpse 17, 455–6
Bartholomeus of Saliceto, jurist 278, 280, 281 n., 421 n.
Bartolo of Sassoferrato (Bartolus de Saxoferrato) 44 n., 83, 277, 281 n., 282–3, 285 n., 411 n., 414 n.
Basle 20, 39–41, 450
  entries in city register 389, 421, 477
Bath and Wells, bishop of 81
Bavaria 450
Bayet, A. 12, 43, 57, 74–6, 79 n., 99 n., 109 n., 194 n., 446 n., 590 n., 595
Beard, M. 529–30
Beaulieu, abbey 31, 35
Beaumanoir, Philippe [de Rémi] de vi, 415
Beaumont-en-Argonne 25–6, 29, 43
Bede 145, 194–5, 250
Belleperche, Peter of, *see* Peter of Belleperche
Benedict XIII, Pope (Pedro da Luna) 361–2, 364
Benedictus Levita 261–2, 271, 431–2
Benvenuto da Imola 190 n.
Bernard of Clairvaux, St 137 n., 217, 360, 432
  pseudo-Bernard 365, 367
Bernardino of Siena, OFM, St 383
Bertachinus de' Fermani, jurist 11 n., 36, 414 n., 434
Bible:
  apocrypha: *Gospel of Judas*, *Acts of Andrew and Paul* 362–4
  Donatists influence Augustine 107–8, 118–19
  Glossa ordinaria 197–200, 222; cited in 13th-century commentary 365
  illuminated MSS 351–4
  limits of influence on medieval ethics 241–4, 371–2
  medieval study of 193–4; recommended by Grosseteste 219
  no express prohibition of suicide 97; compared with: Koran 549–53, Torah 515–16; *see also* Ten Commandments
  possible temptation to suicide in 552
  suicides in 91–6, 139, 193–200; *see also* Abimelech; Achitophel; Judas; Razias; Saul; typology
  Vulgate 90–101, 122
  see also Herod; Matthew
Biel 39
biothanatus (*biothanatos*, *biaiothanatos*) 480–1, 500–1, 504, 518, 521, 544–5
  meanings 473–6
  question of presence of idea in pre-Christian Egypt 584–5
Boccaccio, Giovanni 464
Boëthius 87, 145, 151
Bologna 234, 291, 293
Bolton 80, 82
Bonaventura, St 223, 377–8, 390
  pseudo-Bonaventura 190 n.
Boniface, St 567
Bordeaux 433, 438
Boutillier, Jean, jurist 18, 33, 66, 380
  on attempt 415–6
  indifference to method 435
Brabant 65
Bracton, law book 64–6
Braga, 1st council (561), canon 16, 186–8, 285, 400, 445, 453, 556–7
  absence of canon: from *Judicia Theodori* 256–7; from other Penitential books 263–6

Braga, 1st council (561), canon (*cont.*):
analogues in Indian law 543–5
commentary on 436–8; other medieval allusions to 195, 262, 239, 249, 268–9
darkness of background to 486–7, 531
diffusion 270–2
influence on later canons: 401
lessons on contemporary attitudes 463, 465
modifications 272–6
question of Germanic roots 563, 572–5, 591
text (English and Latin) 183
vocabulary 430–2, 441; phraseology echoes Greek of Pachomian account 578
see also Martin, St, of Braga
Brendan, St, legend 331–2
Breslau 34–5, 465, 473
Britton, law book 64
Bruno of Segni, bishop 190 n.
Brutus, Junius (killer of Tarquinius Superbus) 140
Brutus, Marcus Junius (killer of Julius Caesar) 141, 297, 307, 312, 331, 527
Burchard, bishop of Worms 47, 52, 191–2, 250, 254 n.
on Devil 191–2, 317–18
on intention 401
interpolates 274
quotes Braga 271
on sins of bare thought 409
burial and non-burial of suicides 16–17, 41–53
Bede praises buriers of Saul 195
conciliar decrees concerning 183–4, 187–8, 265, 454, 463; their vocabulary 441–2
custom, tenacity of 13
exhumation 17, 468–9
Hostiensis on conditions for 432–3
illegal or privileged burial 453–64
insistence on non-burial 464–71
C. A. Kerin on 42 n., 442 n.
Nicholas I on practical need 267
on shores and banks 50–1
varieties in practice 284
whether or not insanity softens law 446–8
Bury St Edmund's scriptorium 352

Caesarius of Heisterbach 43, 320–1, 404, 439
Cain 366, 377, 380, 387, 390
Caligula, Emperor 159
Calixtus III, Pope 364
Camus, Albert 134
Canterbury:
convocation and privileged burial of suicides 458
tradition of Herod's suicide in 350–5
see also Theodore; Thomas Becket
capital punishment:
in Roman law 414–15, 420–1, 422–3
see also death penalty; executed criminals
Caracalla, Emperor 170
Cassian, *see* John Cassian, St
Cassiodorus 145
Cassius, Gaius (killer of Julius Caesar) 307
Cassius Hemina, historian 496, 525
Cathars 136, 540, 581–2
Cato the Censor 140
Cato of Utica:
Antipater's tutor 135
approved by Dante 309–15
criticized by: St Augustine 111, 116–18, 121; John of Salisbury 207–8; John of Wales 212
Plutarch on his suicide 140–2, xiv, Plate 4
in Renaissance xv, 320
as Roman 'martyr', 161, 241, 527, 594
Ceos, island 490–1, 541

Chalon-sur-Saône, council (813) 270
Chanson de Roland 332
Charondas Tirus 128, 229, 238
Chartier, Alain, poet 392–3
Chastellaine de Vergi 464
Chaucer, Geoffrey 191 n., 211, 387
Christian of Stavelot 36–7, 42, 75, 196, 510, 524
Chrysippus 130
  see also Stoicism
Chrysostom, *see* John Chrysostom, St
Cicero 135, 137–9, 145–7, 150–1, 163, 236
  contemplated his own suicide 527
  in Dante 297–8, 315
  influence in medieval ethics 373
  on social damage caused by suicide 228
Cino (Cinus) of Pistoia, jurist 11 n., 30, 82 n., 277, 279–81, 285
  on attempt 398 n., 407–8, 413–14
  his method-mindedness 434
  on *nuda cogitatio* 409
Clarus, Julius, jurist 12 n., 19 n., 26 n., 30, 32 n., 35, 446 n.
Claudius, bishop of Turin 195
Clement, St, of Alexandria 590 n.
Cleombrotus, reader of *Phaedo*:
  in Abelard (as 'Theobrotus') 203
  in Augustine 116, 120
  in John of Wales 212
Cleopatra VII, queen of Egypt 139, 207, 307, 309, 585
Cluny, *see* Hugh of Cluny
Commentators, *see* Roman law
confession 216, 225–6, 270, 274–5, 331, 405
  Judas' *metanoia* compared to 358–64, 365–8
  role of in shaping ethical doctrine 373–4, 377–9
  Summae confessorum 271–2; *see also* Penitential books
confiscation:
  added to Aristotle's punishments by John XXII 239
  in medieval law 63–6
  in Roman law 168–77
  see also fisc
Constantine I, Emperor 103, 105, 112, 142–3, 158, 205, 588, 594
Constantine the African (Bab ben Yahia), medical writer 563
contagion of suicide 179, 481–2, 535–9
Cooper, J. 89 n.
Cortona, *see* Margaret of Cortona
clergy:
  in Aquinas 229
  peculiarities in law concerning suicides by 34, 60, 80–3
Cynics 129, 165–6
  see also Diogenes
Cyprus, Queen Demonassa of 513, 524
Cyrenaics, philosophical school 128–9

Damiens, Robert-François 396–7, 399
Dante, *see* Alighieri
Dathan and Abiram 79
Daube, D. 96, 338, 358, 440, 501, 552
death penalty 5, 15, 51–2
  see also capital punishment; executed criminals
death:
  to be desired 210; Philippians 1 : 13
    on its desirability 196, 215, 236–9, 241
  escape from prison 146
  as matter of indifference 133
  as a release 96
  true life 146–7
Denys the Areopagite, St, Pseudo-, legend of 325
Denys (of Rijkel) the Carthusian 391–3
Deodand 61, 449
despair, association with suicide 185, 191 n., 196, 198, 216, 240, 321, 374–95

despair, association with suicide (*cont.*):
absent from: Nicholas I's letter to Bulgarian mission 268; suicide canto of *Divine Comedy* 301, 387
in art 501
desperadoes 82, 381, 550
in Old-Irish Penitential 251, 260
in Raymond of Peñaforte 274
Devil, association with suicide 191–2, 243
absent from: Benedictus Levita 262; *Capitula Dacheriana* 258–9; Dante's suicide canto 301; Old-Irish Penitential 260–1
Burchard of Worms 191, 317–18
in *Canones Gregorii* 258–9
demoniacs sometimes exculpated 263–6
exorcism against diabolical machinations of *biothanati* 473
in *Judicia Theodori* 253–61, 317–18
in legal documents 318
in *miracula* and other religious stories 317–19, 404–5
in Penitential books 431
in pictures of: Judas' suicide 328, 330–1, Plates 9, 10; Herod's suicide 351, Plates 13–15
pushes Pilate's body into river Plate 12(a)
and Santiago pilgrim 477
as 'Satan' in Coptic apocrypha 363
tempts to 382, 578–9
Dhuoda, *Manual* 190 n., 382
Dido 139, 307–9
'the sword of Dido' 450
Dio of Prusa, orator 159
Dio Cassius, historian 179, 565
Dio Chrysostom, orator 513, 524
Diocletian, Emperor 174, 530
Diogenes the Cynic, philosopher 88, 127–8, 165–6, 241
in Abelard 203
in Dante 307
in John of Salisbury 208, 278
and polluted fig-tree 512
Diogenes Laertius, historian of philosophy 122, 130–3, 135, 512, 524
Dinzelbacher, P. 332
Dithmarschen, district 24, 44, 52, 72
divine command can legitimate suicide, doctrine:
Augustine 108, 115, 119
dangers 243–4
echoed in John of Salisbury 209–10
expanded by Remigio de' Girolami 233–4, 243–4
ignored in *Divine Comedy* 315
inverted analogue in a Muslim *hadīth* 553
John XXII 238
in John of Wales 212
Nider 240
in Stoics 135
William of Auxerre 220
see also Augustine; necessity; Stoicism
Dominican friars 291, 319, 364, 366, 383, 458–9
see also Eymerich; Giordano; Guillaume Durand; Herolt; John of Freiburg; Laurent; Nider; Raymond; Remigio; Thomas of Chantimpré; Vernani; Vincent of Beauvais; Vincent Ferrer
Donatists 105–10
Donaueschingen 22
Dorothea, St 112
see also virginity
Douai 33, 418, 420
Douglas, M., anthropologist 427–8, 450, 482
Dreiss 20
Dunstable 457
Durand (Durandus), *see* Guillaume Durand
Durkheim, Émile 143, 159–60, 482, 537

Eadwine psalter xxii, 351
Echternach 24
Edward I, King 466
Egypt:
  apocryphal traditions 362–4
  burial rules: Pachomian 572–80; pharaonic 580–8; early Christian 588–92
  see also Elias
Elias of Alexandria (Neoplatonist) on mutilation of suicides 493, 524, 590
Elijah 96
Empedocles 128, 282, 307
England, legal records used:
  case of Devon JP 51
  Eyre rolls 42, 45–6, 562; Alton 60, 84; Bamburgh 452, 468; Cambridgeshire 454, 461–2; Devon 453–4; London 83; Newcastle upon Tyne 462; Warwickshire 83; attempted suicides in 417–18; examined for proportions of the hanged and for urban–rural differences 502–3
  Lincoln episcopal register 455, 468–9; *see also* attempted suicide
Epictetus 135
  see also Stoicism
Epicureans 128, 135, 165
Epicurus 128–9, 133, 241
Epitome Aegidii, law book 176
Établissements de s. Louis, law book 59, 80, 433, 435
Eusebius of Caesaria, St 106, 111–12, 202
  in Abelard 224
  on death of: Pilate 340–2; Herod 345–6, 348, 355–6
  John of Salisbury 209
excommunication 71, 82, 185–6, 216 n., 273, 442, 445, 457
  excommunicates denied burial: in Roman law 284; by Leo I 43
  formulae mention Judas 326, 333
  Paris Parlement hears appeals against 455
executed criminals 16, 33–7, 56–7, 114–17, 183, 272–3, 285, 441–2, 494–5, 498–500
  Aquinas on 229
  Egypt 584–5
  in Jewish law 520–1
  Norway 571
  their offerings received 182
  see also capital punishment; death penalty
executioners 18–28, 56–7
exhumation of corpses 17
exorcism 473–4
Eymerich, Nicholas, OP, inquisitor 361–4
Ezzelino da Romano 464

Fabricius, J. A. 347
family of suicide 78–80, 452–3
Farinacius, Prosper, Roman jurist 12 n., 30, 32 n., 35, 50
fatalism and suicide:
  in folklore 569, 571
  Judas fated? 356
  Saul and witch 207, 210
felony and suicide xiv, 49, 64, 86–7, 449
  suicide as felony *par excellence* 67–9
  see also murder
Feu, Jean (Johannes Igneus), jurist 11, 14, 283–4, 424, 446
fisc, Roman 158–60
  see also confiscation
Fitzherbert, Sir Anthony, jurist 434–5
Flavius Josephus, historian:
  on burial of suicides 97, 514–15, 524, 535
  on Greek treatment of suicides 509–10, 524
  on Herod the Great's death xxii, 213, 339–41, 344, 353–5, Plate 16
  thinks suicide unnatural 213

Fleta, law book 64
Floire et Blancheflor 320
Florence 62
  attempted suicides in 419–20
  influence on Dante 310–15
  law book 497
Franciscan friars 291, 319, 326–7, 365–6
  see also Alexander of Hales; Bernardino; John of Wales; William of Nottingham
Frankfurt am Main 15, 24–5, 34, 39, 45 n., 420–1, 446–8
Freiburg im Breisgau xix–xx, 330–1
Freidank, poet 319
Frideswide, St, miracles 31
Fulda 459, 472

Gadarene swine 96, 108
Gallus, Johannes (Jean le Coq), jurist 34 n., 44–5
Ganelon, traitor 332
Gaudentius, heretic 106–9, 119, 121
Geiger, Paul 20–1, 28, 32 n., 41 n., 51 n.
Geiler von Kaysersperg 24, 26, 39
Gelasius, Pope 362
Gerona Apocalypse 355 n.
Gervase of Tilbury 39, 569 n.
Ghent 453, 455, 461
ghosts of suicides 150, 303, 460, 471–81
  in ancient Rome 500
  among non-European peoples 535
  not: among Scandinavian *draugr* 565; in ancient Egypt? 584
  paucity of medieval evidence 14, 28
Giordano of Rivalto, OP 44, 499
Glossa ordinaria, *see* Bible; Roman law
Gomez, Antonio, jurist 35 n., 424
Gordian III, Emperor 174
Goslar 23, 34
Gratian, canon lawyer 99, 152, 247, 254, 431, 453–4, 465
  Braga canon in 271, 273–5
  on Judas' noose 326
  Nicholas I's instruction omitted 269
  and Roman law 406
  on whether insanity absolves 447 n.
Greban, Arnoul, poet 351 n., 477
Greeks, ancient:
  concept of *biothanati* 474–6
  laws on suicide 450
Gregory I (the Great), Pope 143
  Dialogues 471–2, 478–9
  and *Digest* 156
  Moralia in Job 97, 196–7, 251, 372, 379–80, 383 n.
  benediction attributed to 476
Gregory III, Pope, *see* Penitential books
Gregory VII, Pope 548
  Gregorian reform 205, 453
Gregory IX, Pope:
  Decretals xix, 323, 443–4, 463, 465, 467
Gregory Thaumaturgus, St 158, 163
Gregory of Tours 42, 349 n., 429, 572–3
Grimald of St Gall, liturgist 476 n.
Grosseteste, Robert:
  on confession 378
  on Ten Commandments 194 n., 213
  thinks suicide unnatural 213, 306
  translation of *Nicomachean Ethics* 225–6
  on value of biblical study 219 n., 365
Guido Vernani, OP, *see* Vernani
Guillaume de Déguileville, Cistercian 360
Guillaume Durand (Guilelmus Durandus) 16–17 n., 334 n., 442 n., 456–7
Guillaume de Lorris xiv, 68–9

Hadrian, Emperor 157–8, 173, 177 n.
  and Jews 517
  and Josephus 509
Haimo of Auxerre 341, 347–54
Hainault, attempted suicide in 420
Halitgar, bishop of Cambrai, *see* Penitential books

Hegesippus of Alexandria, philosopher 128
Henri d'Arci, poet 381 n.
Henry of Hohenstaufen 464
Henry, count of Champagne 561
Henry of Le Dale 318
Henry of Ostia, *see* Hostiensis
Heliand 332
Hell as destiny of suicides 324, 331–2, 596–7
in *Aeneid* 6: read by St Augustine 114
'Amente' in Coptic apocrypha 363–4
Dante 294–315
in Islam 554–5
among non-European peoples 536, 542–5
possible Egyptian analogue 582–3
problem of alms 83
in 3rd-century *Recognitiones* 109 n.
'Vienne' as 'road to Hell' 342
Herard, archbishop of Tours 271–3
Hero, Pachomian monk 578–80
Herod, king and tetrarch xvi, xviii, xxii–xxiii, 323–4
confusion of two Herods 343–4
tradition of his suicide 343–56, 477
Herolt, John, OP 392
Herrad of Hohenbourg 354 n., 477 n.
Hildegard of Bingen, St 217–18, 477 n.
homicide 57, 205, 321–2
Baldus de Ubaldis on 417
Dante on 298–9, 301–2
in English law of felony 68
excessive poverty seen as self-homicide 305 n.
in French law 33–4
penances for 251, 258, 260
in punishments of underworld 363
ravaire as punishment for worst kind 57–9
suicide seen as a kind of homicide: by Jerome 100
worse if done in certain places 62
see also executed criminals; murder; Ten Commandments
Honorius Augustodunensis 350
Horace 129
Hortus deliciarum, *see* Herrad
Hospitallers, religious order 456–8
Hostiensis (Henry of Susa, cardinal of Ostia), canonist 432, 434
Hrabanus Maurus 360, 382
Hugh of St Victor 213 n.
Hugh of Semur, St, abbot of Cluny xviii, 405, 459, 461, 467

Icelandic sagas 3
Igneus, Johannes, *see* Feu
India:
doctrines on suicide 136, 539–47, 550; possible effect on Pachomius 581–2
a Greek follows Indian example 136
Muslims warned against 'Indian fools' 550
Vedas 516
Ingelheim 72
Inquisition, the 59 n., 402, 468
inquisitio as procedure 153
Innocent III, Pope 380 n., 443–5, 456–7, 463, 465, 580
insanity and guilt of suicide 253–6, 260–1, 274, 291, 446–8
intestacy 82
Ireland 50, 67, 260–2, 541
Irenaeus, St 362
Irnerius, jurist 277
Isaac, bishop of Langres 271, 273
Isidore, St, of Seville 87, 102, 145
Pseudo-Isidorean Decretals 261
Islam, *see* Muslim
Ivo, bishop of Chartres 254 n.
Decretum 271, 274, 453–4, 465

Jacomo da Sant' Andrea, wastrel 305
Jacques de Révigny (Jacobus de Ravanis), *see* Révigny
Jacques de Vitry 379–81

James of Varazze (Jacobus a Varagine), OP xxiv, 233, 342, 352, 355–6
Jean de Coucy, poet 387–9
Jephtha:
  compared to Samson 191 n.
  William of Auxerre on 220
Jerome, St:
  a 'Ciceronian' 137
  cited in commentary 365
  conveys ancient anecdotes 128
  on Judas 120; tendentious translation of account of Judas' death 338–9, 363–4, 497
  permits suicide to protect virginity 100, 111, 340; John of Salisbury disagrees 208
  quoted by Abelard 202–3, 241
  translates Eusebius 106
  views on suicide 99–100, 190, 24
  see also virginity
Jews:
  comparison with Islam 548
  and Judas 329–34, 357–8, 365–6
  Midrashic exposition of psalter xiv–xvi, 98
  rituals 450
  and St Matthew's Gospel 337–8
  views on suicide 90–1, 105; relating to the military 570; taboo 494, 506
  written and unwritten law 515–17; *Šĕmahot* 518–22, 524, 557; Talmud 516–17, 522–3; *tannaïm* 517–23
  see also Flavius Josephus
Joan of Arc, alleged attempted suicide of 403
Job 96–7, 108, 196, 212 n.
Jocasta 139, 398
  see also Oedipus
Jodocus, jurist 19, 446 n.
John Cassian, St 474, 578–80, 582
John Chrysostom, St 109 n., 359–60, 365, 391
John VIII, Pope 273
John XXII, Pope 11, 29 n., 36, 235–9
John, king of Bohemia 560
John of Freiburg, OP 274, 432, 465
John Herolt, OP, *see* Herolt
John of Salisbury 129 n., 206–211, 244, 278, 386 n.
  passage on suicide 221, 232
John of Wales, OFM 129 n., 211–13
Jonah 95–6, 100, 241
Josephus, *see* Flavius Josephus
Judas Iscariot 317, 323–9, 356–68
  accepted by Christ 361
  Augustine on 108
  as *biothanatus* 474
  Dante on 297
  'despair' of 386–7, 391
  defended 196
  depictions of xii, xvi, xviii–xx, 323–4, Plates 6(a), 8–11; Judas' death juxtaposed with Crucifixion xii, xx–xxi, Frontispiece, Plate 10
  Gospel of Judas 362
  heinousness of his suicide 190–2; aggravated his treachery 114; compared with other biblical 'bad ends' 97; effect of 'evangelical awakening' on conceptions 329; 'the sin of Judas' 326–31
  John XXII on 237, 239
  as miser 329, 357
  Nicholas I on 268
  his noose 326, 449
  Peter Lombard on 215–16
  Peter the Chanter on 360
  St Matthew on his death 95, 99; commentary 195–6, and by: Christian of Stavelot 36, Origen 99–100, 358–60; Remigius of Auxerre 348–9 (quoted by James of Varazze 356); by Theophylact of Ochrid 363–4; William of Nottingham 364–8, 477; compared with Acts 335–9; MS illuminations xxi–xxii, Plate 11, 352; vocabulary 440

soul joins demons in middle air 477
suspendiosus 501–2
validity of his repentance challenged 120
Julian the Apostate, Emperor 144
Julius Caesar 140–1, 311–13, 527
Jung, C. G. 429
Justinian, Emperor:
law reform 154–6
reign 181
see also Roman law

Kos, island 512, 524

Lactantius, Christian writer 100–1, 109 n., 128 n., 151 n., 190, 192
Lanuvium, inscription at 491–2
Langton, Stephen 216
Lambach, Upper Austria xxiv, 355, Plate 16
Lano of Siena, wastrel 305–6
Laon 198–201
see also Anselm
Latini, Brunetto 306
Laurent, Frère: *Somme le roi* 378, 380
Lausanne 343
Le Coq, Jean, *see* Gallus
Lecouteux, C. 480
Le Goff, J. 25, 324, 447
Leipzig 73
Leo I, Pope:
family background 143
quoted on Judas 365–7
view on burial of excommunicates 43, 467, 480
lettres de rémission, *see* Paris, Court of Requests
Lex romana visigothorum 176
Lex talionis: principle in punishment of suicides 47, 298–305, 555
Lives of the Fathers 233
Lille 24–6, 29, 33, 433
Livy 139
Louis IX 455
see also Établissements
Lucerne xiii, 37
Lucretia 161, 207, 212, 241 496, 594
suicide of: Augustine on 111, 114–18, 129; in *Divine Comedy* 307; in *Le Roman de la rose* xiii–xiv, Plates 2, 3; Livy on 139–40
Lucretius, poet 129
Lorris, *see* Guillaume de Lorris
Lübeck 44
Lucan, poet 136, 207 n.
influence on *Divine Comedy* 307, 312–15
use of term *desperare* 385–6, 394

Maccabees, 2nd Book of xvvii–xviii, 94–5, 107–8, 198–200, 205, 440
Macrobius, Ambrosius Theodosius, philosopher 88 n., 228, 241, 243–4
Saturnalia 145, 347; corrupt MS carries error about King Herod 347, 348–9, 355–6
In somnium Scipionis doctrine on suicide 144–51; quoted by: Abelard 202, 203, John of Salisbury 208, 210, *Summa fratis Alexandri* 222–3; not by John XXII 237
Madras 28
Mai et Beauflor 327
Mainz 261
Maitland, F. R. 69 n., 82
Manichees 115, 223
Marcian, jurist: his principle *qui enim sibi non perpercit* 175, 191, 320
Marcus Aurelius, Emperor 143, 157
Margaret of Cortona, St 19
'Margaret', falsely buried as suicide 50–1, 319, 507
Marseilles 490, 578
Martial, poet 209
Martin of Braga, St 137, 572–5, 580, 591–2
Formula vitae honestae 373

Mary Magdalen, St: confusion with Mary of Bethany 325
see also Vézelay
martyrdom and suicide:
distinguished by Augustine 104–10, 134–6
Muslim views 559–62
Stoics on 139–42, 161
Mattheus, jurist 24
Matthew, St, *see* Judas
maverick, moral and legal: suicide as a 8, 82, 246–7, 406
Maxentius, Emperor 112
Maximian, Emperor:
in legend 111
in Roman law 174
Metz 17 n., 24, 38, 39, 477
Meung, Jean de xiii–xiv
Miletus, ancient city in Anatolia 525
Millar, F. G. B. 132, 158–9
Milson, S. F. C. 54
Mirk, John 350
Missenden, *see* attempted suicide
Moralium dogma philosophorum 137–8, 373
Moses 96
murder, concept of 48–9
meutre 57–9
Murray, Margaret 13
Muslim law on suicide 450, 547–63
Myrc, *see* Mirk

nature 319–20
Dante's idea of 299; as contrasted with violenza 304–6
suicide an affront to, according to: Grosseteste and others 306; John of Wales 213; Nider 240
see also Flavius Josephus
Naumburg 360
necessity, as justification for suicide:
Cicero and Seneca 138
echoes of the doctrine in Roman law 162, 172–3, 178
the 'five ways' necessity can take 135
Plato 124
Plotinus 148
Stoics 134
Neoplatonism 115, 142–51, 161, 222–4, 325, 581
see also Denys; Elias; Plato; Plotinus; Porphyry
Neratius, jurist 504
Nero, Emperor:
in MS illumination 323–4
suicide of 31–2, 45, 350
Neumünster 44, 52, 72
Nicholas I, Pope 16, 42, 190 n., 268–9, 580
on Judas 326
text of instruction to Bulgarian mission 267–8
Nicholas of Bologna (Niccolò di Giacomo da Bologna), illuminator xix, 323–4, 372 n., 364, 394, Plate 8
Nider, Johannes, OP 239–41
Nîmes 433, 442 n., 445
Normandy, *Grand Coutumier* of 79 n., 82
Norway:
attitudes to suicide in sagas 563–72
law: of Eidsivathing 402; *Frostathingsbók* 17 n.; of Gulathing 50, 571
threshold ritual 28
Notker, St, of St Gall 459
Nuremberg 19 n., 34, 44, 46, 421, 442, 463

Odo of Cluny, St 197
Oedipus:
polluted 426–7
Sophocles' attitude changes 398
see also Jocasta; Sophocles
'old-age-pension' suicides:
early Arabs 558–9
Hyperoboreans 566, 569
in India 540–1

Olympiodorus, commentator on Plato 135
ordeal, judicial 71, 399
Orderic Vitalis 475–6
Orleans, 2nd council (533), canon 15 186–8
  text 182–3
Orléannais 59
Origen:
  Commentary on Matthew 99–100, 358–60; quoted by Theophylact of Ochrid 362–3
  Contra Celsum on Judas' repentance 359; echoed in Paschasius 196
  medieval neglect of 365
  relationship with Alexandria 333, 590 n.
Orosius, historian 341
Otloh of St Emmeram 459, 472, 479 n.
Otto of Freising 341, 354 n.
Oxford 31, 456

Pachomius, St 575–80, 588–92
Padua 306, 332, 383, 501
Palladius, author of *Lausiac History* 576–8, 591 n.
Panaetius, philosopher 133–5, 145
Paphnutius, abbot 580
Papinian, jurist 155
paradox:
  capacity of suicide to create 118, 153–4, 163, 177–8, 311–12
  the 'Stoic paradox' 165–7
Paris:
  abbeys in and near 17 n., 29, 44 n., 49–50, 466 584; Ste Geneviève 462, 507; St Germain des Prés 31 n.; St Martin des Champs 18; St Maur des Fossés 45, 58–9, 61, 64
  city burial-ground for suicides 45
  Court of Requests (in lettres de rémission) 17, 65, 80, 419, 448; allows burial of a suicide 464; hears plea of insanity 462–3
  illuminated MSS xvi, xxii, 351, Plates 6, 13
  ivories xx, 331, Plate 10(a)
  legend of St Denys 325
  Parlement 33–4; cancels excommunication by bishop of Amiens 455–6
  royal justice 59, 64–5
Paschasius Radbertus 196, 360, 362, 364
Passion, the:
  as antithesis to suicide 244
  juxtaposed in art with Judas' suicide xii, 327–9, Frontispiece, Plate 10
passions, human, as cause of suicide 135–6, 149–50, 301
Paul, St 96
Paulinus of Nola, St 143
Pelagia, St 111, 139 n., 212
  see also virginity
Penitential books 249–67
  on attempt 401
  on 'bare thought' 409
  discussed with closely related texts 252–9, 269
  opposition to 262–3, 270
  particular books 270, 431, 453–4, 556, 580; Benedictus Levita 261–2, 271, 431–2; *Bigotianum* 261; 'Canons of Edgar' 264–5; *Canones Gregorii* 258–9, 260; *Capitula Dacheriana* 258–9; Halitgar 263–6; 270, 431; *Judicia Theodori* 253; *Martenianum* 262–3; *Merseburgense* 263–4; Old-Irish Penitential 260–2; *Vallicellanum* I and II 264; *Vindobonense* A 264
  use of term 'desperatio' 382
  vocabulary: what it reveals concerning: method 431, intention 445–6; and 'Indo-European' question 546–7
Peter, St 96
Peter Abelard, *see* Abelard

Peter of Belleperche, jurist (Petrus de Bella Pertica) 277, 281, 285, 415
Comm. in Codicem quoted 410, 413
indifference to method of suicide 434–5, 82 n.
Peter the Chanter (Petrus Cantor) 194 n., 213, 216, 218
on Judas 360
Peter Damian, St 319, 569 n.
Peter Lombard 190 n., 214–16, 220–1, 231
Peterborough 352–4
Petrarch 129 n., 205, 383
Petrus de Ubaldis (Pietro de' Ubaldi), jurist 278, 284, 442 n., 464
Pharisees 96
Philo of Alexandria 339–40
Philolaus of Taranto, Pythagorean 124
Phocas, Byzantine official 164, 530–1
Pier della Vigna xvii–xviii, 300–3, 320
Pilate, Pontius xxii, 39–41, 339–43, 350, 477–8
Long Legend 341–3
Plato, philosopher 87, 128, 227, 244
Laws, on burial 49, 505–7, 524–5
Phaedo 123–5, 134–5, 140–1, 144–5, 203, 505; Latin translation 222
anti-suicide doctrines attributed to by Macrobius 149–51
in Augustine 116
in John of Wales 212
on punishment of 'bare thought' 406
in *Summa fratis Alexandri* 222
suicide doctrines: Pythagorean gods 143; life a divine gift 139
see also Macrobius; necessity; Neoplatonism
Plato Comicus, playwright, lost *Menelaus* of 511–12
Plautus 409
Pliny the Elder 496, 525, 566
Plotinus 143–4, 147–51, 208, 244
Plutarch xv, 207 n., 320
on Cimbri 567
on Themistocles 510–1, 524
on Timon of Athens 506–7, 524
pollution, idea of 426–8
burial place 265
dead mouse 250–1, 485
Diogenes and fig-tree 512
non-European analogues, 535, 537–8
quest for ancient rituals concerning 487
in treatment of suicides 428–51, 481–2
Porphyry, philosopher 88, 118, 144, 147–50, 223, 244, 472, 500
Isagoge 493
Postglossators, *see* Roman law
Psalters xiv–xvi, xxii–xxiii, 251, 351, Plates 5, 13, 15
Ptolemy Macron, Roman official 94, 97
Purgatory 227, 289–315
Pyramus and Thisbe 450
Pythagoreans 124–5, 143, 147, 208, 244, 494, 505–6
in John of Wales 212
Philolaus 124

Quintilian, rhetorician 487, 489–90, 524, 541, 573

Ralph of Laon 197
rate of suicide: hypothetical rise *c.*1500 32–7, 52
Ratherius, bishop of Verona 379, 383
'Ravaire', ravage:
in medieval Europe 57–63
non-European analogues 538
Raymond of Peñaforte, OP 274–5, 432
Razias xviii, 94, 97, 107–8, 198–9, 222, 241
see also Maccabees
Regensburg 34, 38–9, 442
Kaiserchronik 31–2, 45
see also Otloh
Regino of Prüm 191 n., 258 n., 271, 274
Regulus, Roman moral exemplar 117

Remigio de' Girolami, OP 30, 232–4, 239
Remigius of Auxerre xxiii, 347 n., 348–9, 355–6, 349, 352, 354, 356
Rennes 404
Révigny, Jacques de (Jacobus de Ravanis), jurist 277, 280–1, 285
Rheims 261, 466
Richard II, King 466
right to commit suicide:
  Cato 141
  Diogenes 88, 128
  Seneca 139
Ripuarian Franks 46–7
river:
  suicide's corpse thrown in without barrel 41, 342, 442
  see also barrel
Robert of Flamborough 271, 274–5, 432
Robert Grosseteste, *see* Grosseteste, Robert
Rocamadour, miracle in 318, 320, 461
Rogerius, jurist 412
Roland, Chanson de (*Song of Roland*) 332
Roman de la rose xiv
Roman law 354, 63–7, 72–3, 152–81, 241
  as background to Quintilian on suicide 489–90
  character 245–9
  Codex 153–4
  commentaries: character of 276, 278–9, 285–6; Commentators and Postglossators 277, 407, 412, 414, 421–2; *Glossa ordinaria* 277, 407; Glossators 277
  Digest 54, 154, 156–7
  equity in 454
  how made 154–65
  relation to canon law 406, 422–5
  suicide, position on 165–81
  and *suspendiosi* 504
  use by John XXII 229
  vocabulary for 433–4, 439–40
  see also Justinian; Marcian; Neratius; Papinian; Ulpian
Romeo and Juliet 319
Rosser, A. G. 470
Rouen, cathedral of Notre Dame xix, 330, 469
Rudolf, archbishop of Bourges: *Capitula* 271
Rügen 23, 31, 44, 47–9, 51–2, 72, 435

Sachsenspiegel 63 n., 79
St Quentin (town) 418, 420
Salzburg: miracle 404
Samson 197, 241
  account of in Judges 16: 18–30, 92–3, 95, 97; vocabulary 440
  compared to Jephtha 191 n.
  in John XXII 238
  in John of Wales 212
  justified 560
  in Nider 240
  in Remigio 233
  suicide by privilege or 'special command' in St Augustine 116, 119, 560
  as 'type' of Christ 220
sanctuary 470
Santiago: suicide-pilgrim to 213, 233–4, 243–4, 405, 461, 477, 581
Sarah, daughter of Raguel (Tobit) 95, 228
Sardinia 44
Saul, King xv–xvi, xxiii, 194–8, 207, 210, 241, 382, 513, Plates 5, 15
  in Dante 308–9
  his honourable burial 97, 195
  his suicide described 93–4
  his suicide in typology xxiii, 353–4, Plate 15
Scarlet Pimpernel, as model for historical method 12–13, 89–90
Schilling, Diebold, chronicler xiii
Schmitt, J.-Cl. 472 n., 479–81

Schwanheim 469
Scipio Africanus 145–7, 388–9
Scotland 28
Śémahoṯ, *see* Jews, written and unwritten law
Seneca, philosopher 129–31, 134–5, 137–9, 162–3, 205, 406
  belief that to stop a man committing suicide is worse than to kill him 139
  in Dante 307
  in John of Wales 212
  in medieval ethics 373
  in St Martin of Braga 574
  as vehicle of legend 317
Seneca Rhetor 175, 487–9, 524, 541, 573
  see also Marcian
Septimius Severus, Emperor 158–9, 170
Servius, commentator on Virgil 494–503
Signori, G., law different for rich and poor 528 n.
Silesia 46, 50, 465–6
sins, cardinal 295–8, 370–4, 373–4
slaves, suicide by 75, 182, 434, 457
  analogy in Muslim law 557
  exception in Roman law 282–4
  principle of ownership and 124, 149
  Tarquinius Superbus and 179–81, 496, 525
social aspect of suicide:
  Aquinas 230
  in Aristotle 127, 228–9
  Augustine 228
  Cicero and Seneca 138–9, 228
  Dante 289–306
  difference between philosophers' and lawyers' positions 165–9
  in Greek *polis* 508–9
  John XXII 238–9
  in Nicholas I 268–9
  in Pachomian monasticism 580–1
  in Penitential books 266–7
  public character of punishment 61, 84
Smalley, B. 193, 197 n., 211
soldiers, suicide by:
  as analogy of desertion of post 125, 148
  in medieval commentary 282–4
  in Roman law 177–8
Sophocles:
  on children 344
  and pollution 398
  see also Oedipus
Sophronia, St 112
  see also virginity
Speculum morale 341, 354 n., 380
split tradition concerning a suicide
  Empedocles 128
  Herod 343–56
  Judas 335–9
Stephen Langton, *see* Langton
Stoicism 115, 121, 129–44, 156
  divine command can legitimate suicide, *see* divine command
  in Florence 310–15
  in medieval ethics 204–6, 210–11, 241–4, 293–4
  in moral theology 370–4
  republican morality 141, 314
  'Stoic paradox' in Roman law 161–2, 165–7, 169–81; creates tension in commentary 278–9
Strasbourg 24, 38–41
Suetonius 159
suicida, word 205
suicide: various aspects of suicide and its investigation are served in this index under the following headings: alms, attempt, barrel, burial, clergy, contagion, despair, Devil, divine command, family, fatalism, felony, ghosts, homicide, insanity, martyrdom, maverick, nature, necessity, 'old-age pension',

paradox, passions, pollution, rate of, right, river, slaves, social aspect, soldiers, split tradition, temptation, theatrical element, women
Summa Alexandri, *see* Alexander of Hales
suspensus, *suspendiosus* 338–9, 439–40, 495–504, 554
'suttee' 540–1, 566–7

Tacitus 339
Tallaght, Irish monastery 260–1
Talmud, *see* Jews, written and unwritten law
Tannaïm, *see* Jews, written and unwritten law
Tarquinius Collatinus 140
Tarquinius Superbus 140, 179, 496–7, 525
Templars, religious order 456–7
Ten Commandments and suicide:
'love they neighbour', *see* social reasons
'thou shalt not kill: Aquinas 229; Augustine 114–17, 417, 523; Grosseteste 194 n., 213; influence latent in Dante 301; John XXII 238; Nider's most-used text 239–41; Peter Lombard 215; Remigio 232–3; *Summa Alexandri* 221; in Talmud 523; *see also* Bible; homicide
Tertullian:
on ghosts 480, 584
on Pilate 340
on Seneca 137
Thaïs, queen of Carthage 388
theatrical element in descriptions of suicide:
Cato 140–2
Razias 94–5
Thebes (in Greece) 511, 524
Thebes, Thebaid (in Egypt) 575–80
Theodore, archbishop of Canterbury 252
see also Penitential books
Theodosius I, Emperor 588
Theobrotus, *see* Cleombrotus
Theophylact of Ochrid 360, 363–4
theology, character of 189–90, 214, 219, 287–8, 368
theology, moral:
character 370–4, 394–5
vocabulary 369–70
see also Stoicism
Thomas Aquinas, St 30, 128, 145, 205, 229–31, 244
influence in later Dominican writings 232–5
in Dante 300 n.; and his '*violenza*' 304 n., 305
in Pope John XXII 236–39
Thomas Becket, St, *Miracula* 404
Thomas of Chantimpré, OP 321
Thomas of Chobham 189 n., 191 n., 272–4
Thomas of Strasbourg 190 n.
threshold ritual xiii, 23–8, 545, Plate 1
thunderstorms after suicide 342
Tiberius, Emperor 340
Timothy, patriarch of Alexandria 589–90
Tobit, book of, *see* Sarah
Toledo, 16th council (693), canon 4 382, 400–1, 431
text 184–6
Tolentino, Italian village 45, 409
Tours 443–5, 463
Trajan, Emperor 159, 292, 310
Tronart, Isabel, suicide 464
Troyes, council (878) 273
Tribonian, jurist 164
Tournai 33
typology:
Achitophel and Judas xvi, 328, Plate 6(a)
Herod 352–4

typology (*cont.*):
Razias and temptation to suicide xvi–xvii, Plate 6(b)
Saul 353–4, xxiii, Plate 15

Ulpian, jurist 155, 160 n., 179–80, 282, 407
Utrecht 24, 463

Valence, council (855) 273
Valerius Maximus 212, 233, 490–1, 524, 541
Varagine, Varazze, *see* James of Varazze
Varro 496–7, 524
Vemgericht, of Westphalia 22
Venantius Fortunatus 573
Venice 477
Vernani, Guido, OP 234–5, 238
Vézelay (Yonne), basilica of St Mary Magdalen xviii–xix, 328–30, Plate 9(b)
Vienne 342–3, 354 n.
Vincent of Beauvais, OP, *see Speculum morale*
Vincent Ferrer, OP, St 361–4
violence, Dante's idea of 302–6
see also homicide
Virgil:
Aeneid 6: as authority for underworld fate of suicides, assessed 526; in St Augustine 114, 120; in *Divine Comedy* 304
Aeneid 7: suicide of Amata, queen of Latium 307–9, 494–5, 497
as character in *Divine Comedy* xvii, 1, 291–309, Plate 7
in Roman tradition 145
virginity:
shared Roman and Christian ideal 110–13
suicide permitted to protect: by Eusebius 100–3, 340; by Sts Jerome and Ambrose 100–3; not by Augustine 111–17, 119; nor by John of Salisbury 209–10; nor by Remigio 233; dilemma noted by Abelard 202
see also Lucretia
virtues, cardinal 314, 323–4, 373–4
Visigoths, *see* Braga; *lex romana visigothorum*; Toledo
vocabulary, lessons learned from:
in Bible 440, 440
councils 430–2, 436–8, 441–3
laws' method-mindedness 430–41
Penitential books 431, 445–6
see also suspensus
Vorauer Novelle 467 n.
Vulteius, Roman general 207, 385–6

Walter of St Victor 205
'wide net' principle of investigation 14–16, 400
William II, King ('Rufus') 475–6, 481
William of Auxerre 191 n., 219–21, 225
William of Conches 151 n.
William of Malmesbury 478
William of Newburgh 478–9
William of Nottingham, OFM xxi–xxii, 364–8, 378, 477, Plate 11
Winchester:
10th-century school 349–51, 355
13th-century bishop 81
witches:
punishment 14–15, 41, 470–1
witch of Endor 207
women, suicide by:
peculiarities in treatment 33–4, 80, 433, 435; and in attitudes 320–1

York, archdiocese of 81

Zamonetič, Andreas (†1484) 20, 389
Zeno, philosopher 130, 135
see also Stoicism
Zenobius, historian 511
Zimry, OT suicide 93, 97, 195
Zürich 39, 469, 477